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ABSTRACT

In October 1992, Congress passed legislation supporting American Indian tribal demonstration projects that would consolidate employment services, job training, and related services to improve the effectiveness of such services, reduce unemployment, and further tribal goals. In September 1993, a Senate hearing received testimony concerning the extent of implementation of these pilot projects. Representatives of the Bureau of Indian Affairs, the Department of Labor, and the Department of Health and Human Services reported that: (1) these agencies had established a management framework specifying their roles and responsibilities with respect to the statute; (2) the agencies were developing written guidance for tribes on project implementation, as well as consolidated program report forms; and (3) 55 tribes were willing to participate in program implementation during fiscal year 1994. Representatives of tribes and Indian organizations discussed: (1) the importance of federal agencies treating the tribes as full partners in the implementation process; (2) concerns that federal agencies not create barriers to implementation; (3) the relationship of this initiative to ongoing tribal self-governance initiatives; (4) the need for data collection that would allow program evaluation in terms of local circumstances; and (5) concerns over Department of Labor plans to publish new regulations affecting Indian Job Training Partnership Act (JTPA) programs. An appendix making up the bulk of this document contains the text of the legislation (Public Law 102-477), much discussion about the proposed JTPA regulations, reports on Native unemployment and economic development efforts on reservations and in urban areas, and a description of a planned electronic network linking grantees with each other and with federal agencies. (SV)

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IMPLEMENTING OF PUBLIC LAW 102–477, THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992

ED 367 520

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

REGULATIONS DEALING WITH SECTION 401 JOB TRAINING PARTNERSHIP ACT

SEPTEMBER 15, 1993
WASHINGTON, DC

U.S. DEPARTMENT OF EDUCATION
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IMPLEMENTATION OF PUBLIC LAW 102-477, THE INDIAN EMPLOYMENT, TRAINING, AND RELATED SERVICES DEMONSTRATION ACT OF 1992

WEDNESDAY, SEPTEMBER 15, 1993

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 3:12 p.m. in room 485, Russell Senate Office Building, Hon. Paul Simon (acting chairman of the committee) presiding.

Present: Senators Simon, Kassebaum, and Daschle.

STATEMENT OF HON. NANCY LANDON KASSEBAUM, U.S. SENATOR FROM KANSAS

Senator KASSEBAUM. Senator Simon will be with us in just a few moments, but I thought perhaps I might have the first panel come forward, and we'll start some introductory comments. I'll make a few, and Senator Simon, I hope, will be here by then. We have the Assistant Secretary of the Interior, Ada Deer; the Assistant Secretary of Labor, Employment, and Training, Doug Ross; Diann Dawson, Acting Director, Office of Family Assistance, Administration for Children and Families, Department of Health and Human Services; and Norman DeWeaver, Center for Community Change, Washington, DC.

Welcome. I am Senator Nancy Kassebaum from Kansas. I'm the ranking member of the Labor Committee. I'm also a member of the Committee on Indian Affairs and Senator Simon, who will be chairing this meeting, is a member of the Labor and Human Resources Committee as well as the Committee on Indian Affairs. I think this is a wonderful opportunity to explore these issues in the context of both committees' interest. Myself, I would just like to offer a few comments in the beginning.

If I may be so parochial to start for just a moment and say it's a pleasure to welcome a Kansan who will be on the second panel of the hearing. For 16 years, Ida Nadeau has been the JTPA Director for the United Tribes of Kansas and Southeast Nebraska in Horton, Kansas. Her extensive experience and knowledge in the field of Native American job training make her, I believe, a welcome and knowledgeable witness and an important resource for those of us who are interested in seeing that the programs which we authorize and fund are effectively carried out. I know we have

valued her assistance to us as we've worked through some of these issues.

Senator Simon, of course, is here now with us, and at just the right time.

Senator SIMON. Well, thank you.

Senator KASSEBAUM. Senator Simon and I have worked on many issues, and we share jointly, I think, a keen interest in the job training issues, and particularly, of course, as they relate to Native American interests. So I'm pleased to be here for a few moments—I can't stay through all of the hearing—to welcome you.

Thank you, Senator Simon, for letting me start the hearing, and I'll just put your name up here. [Laughter.]

Senator SIMON. Well, I thank you. You do an outstanding job of that.

STATEMENT OF HON. PAUL SIMON, U.S. SENATOR FROM ILLINOIS

Senator SIMON. First of all, I apologize. I don't like to have people keep me waiting, and I don't like to keep other people waiting, but I was in a meeting with Senator Hatch trying to get something resolved that needed to get resolved, and I hope we're making progress on another front that also affects Native Americans.

We are interested in the job training reform amendments, and specifically the legislation that permits greater coordination, people working together on the reservations, and the hearing is designed to see what we can do here.

Let me just add that this is the first meeting in which I have been with Ada Deer as our new Assistant Secretary in charge of the Bureau of Indian Affairs, and we welcome you as well as welcome all the witnesses here today.

Senator SIMON. Let me call on you, Madam Secretary, first, if I may, and then we'll hear from the other witnesses.

STATEMENT OF ADA E. DEER, ASSISTANT SECRETARY, INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC

Ms. DEER. Good afternoon, Mr. Chairman, and members of the committee. I'm very pleased to be here and to testify today. I'm here to discuss the status of the implementation of Public Law 102-477, the Indian Employment, Training, and Related Services Demonstration Act of 1992.

Public Law 102-477 provides tribal governments with the option to integrate their various Federally funded employment, training and related services into a single coordinated, comprehensive program. In order to implement this act, the Department of Labor, Health, and Human Services and the Interior are in the process of forging a new working relationship. Since December 1992, these agencies have been working together to combine their resources and expertise to effectively implement Public Law 102-477. As required by the law, the Department of the Interior is coordinating this effort.

In March of this year, we sent a letter to all 516 Federally recognized tribes and Alaskan Native villages informing them of the enactment of Public Law 102-477. A copy of the law was enclosed for

their ready reference. At the same time, we solicited their input toward implementation of this act. On July 30, an announcement was published in the Federal Register inviting resolutions from tribes interested in participating in this demonstration program. We have received 55 tribal resolutions from tribes wishing to participate in fiscal year 1994.

The Federal agencies participating in this pilot program are currently meeting weekly in order to complete the necessary steps to ensure timely implementation. The Memorandum of Understanding has recently been signed by the participating departments. We're also in the process of developing a single report form, which will reduce the time and cost tribes expend to administer the demonstration program. In addition, we are in the process of developing formal guidance for tribes to follow in preparation of their proposals for participation in the program. This has been the subject of several meetings currently scheduled among the Federal agencies participating in implementing this act.

We strongly believe in the goals of Public Law 102-477 and fully support the demonstration project. This project could serve as a model for other Bureau of Indian Affairs programs as we strive to reduce reporting requirements, reduce regulatory constraints and other administrative burdens at the tribal level.

This concludes my prepared statement. I will be happy to answer any questions.

[Prepared statement of Ms. Deer appears in appendix.]

Senator SIMON. Thank you very much, Madam Secretary.

Our next witness is Doug Ross, Assistant Secretary of Labor, Employment, and Training.

We're very pleased to see you here again, Mr. Secretary.

STATEMENT OF DOUGLAS ROSS, ASSISTANT SECRETARY OF LABOR, EMPLOYMENT, AND TRAINING, DEPARTMENT OF LABOR, WASHINGTON, DC

Mr. ROSS. Thank you, Mr. Chairman, and Senator. I would like to simply submit my written testimony and make a few comments, if I may. I appreciate very much this opportunity to come in and report on where we are in terms of section 401 of JTPA and what looks like a discussion of some of the rules that might be proposed under it.

The day after Labor Day—I think it was September the 7—I had an opportunity to sit down with a group of representatives, both from the council that advises the Employment and Training Administration on Native American affairs and some other representatives of grantees, to talk about the nature of the relationship we needed to have and where we were with all of these rules and regulations. What everybody said very clearly was that they would like to approach the relationship with ETA in a different way. They'd like to start a relationship which really was built from the beginning very much as a partnership which recognized the different standing, the separate standing, that the Indian tribes have with respect to our Government, and that we would like to develop a partnership that would allow us to collaborate in deciding how to make these programs best serve Indians and Native Americans

who desperately need this kind of employment and training service.

So in that spirit of a fresh start, we made a number of decisions together that I really have come to share with the committee. First of all, we decided to withdraw all of the rule changes that are being proposed under the JTPA 401 Program on the grounds that we wanted to pull them off and start anew. We did agree that, working with the council, which is up and running and fully appointed, we would begin the process of looking at those rules that are required by the JTPA amendments of last year. We didn't think those would be a big problem, but we committed to doing them together.

We then said that before we talked about any changes in the performance of the programs themselves, we needed to jointly sponsor or undertake an objective look at how the programs were forming, that so much of the debate over the programs was occurring without any really good look at how well they were accomplishing what they were set out to do, that that would be high on our agenda and that we would, again, do that in a collaborative fashion.

I also indicated then that I would, as quickly as I could, sign the Memorandum of Understanding with the Departments of the Interior and HHS, which I was able to do several days ago, and I indicated that that, to me, represents a very hopeful approach and one that's very consistent with the partnership notion, which says,

Here are resources within the contours of the law. You figure out how this is going to produce the greatest impact in terms of helping people in your particular tribe or in your particular area.

And I committed to bringing maximum flexibility to that process, because I think it's one that could serve as a model for an awful lot of what we do if it turns out to be successful.

I indicated that I was very interested on following through on the creation of a single unit within ETA to deal with issues relating to the employment and training of Native Americans, and indicated that it would in fact be a single place. There were a few functions, like the Inspector General function and so forth, that would be required to be separate, but beyond that we were prepared to do that. I was trying to make some decisions on where we would put it. I would only say that because of a management philosophy which tries to turn the pyramid upside down, the closer it is to me organizationally probably the more suspect it is in terms of whether it's really important. We want to get it out close to where our programs and customers really hit, but we will give it important standing, because that's the way we view it.

I also indicated that we had an opportunity to select a new director for this unit as we constitute it. The current director of our existing program has announced that he'll be stepping down, and we indicated that we would work together to look very actively for qualified members of the Native American community. Obviously, we're required to find the best available person for the job, but we made a very strong commitment to see if we couldn't find a Native American who would fill that role.

Finally, I indicated that I was very interested, as part of this, in getting out and seeing a lot of these programs on-site where they exist, and, in turn, I asked for a commitment to help me learn

something more about Indian culture, especially business culture, since we were going to be carrying out a lot of business together, and, frankly, I didn't know much about it. So that was a commitment they made to my own education.

Finally, one of the things I did want to point out that I thought could also be very useful in terms of building this partnership, and that is we recently, using JTPA technical assistance funds, awarded a grant to the California Indian Manpower Consortium, which is a section 401 grantee, to begin putting together an electronic communications network that ultimately would be intended to hook up all of our grantees—I think we have something like 130 that are on reservations—starting probably with ETA and other resources so that in terms of sharing best practice and information and getting feedback, it would be as though we were all part of one community, which is in fact the goal that we have for our partnership.

So, I think we have set up a fairly ambitious agenda for ourselves, but we feel we have a powerful new working understanding between ETA and the council, and it is with great expectation and hope that we're moving forward.

[Prepared statement of Mr. Ross appears in appendix.]

Senator SIMON. Thank you.

Before I call on Ms. Dawson, let me note the presence of Senator Daschle, who is a cosponsor of the original legislation that passed.

Do you have any opening comments, Senator Daschle?

Senator DASCHLE. I don't, Mr. Chairman. I thank you for holding this hearing, and I've enjoyed listening to our witnesses and look forward to the testimony.

Senator SIMON. Thank you.

Let me also note the presence of Pat Fahy, with the Department of Labor, who has a very illustrious past. She once was on my staff. [Laughter.]

Diann Dawson, the Acting Director of the Office of Family Assistance, Administration for Children and Families, from HHS.

Madam Director, we're pleased to have you here.

STATEMENT OF DIANN DAWSON, ACTING DIRECTOR, OFFICE OF FAMILY ASSISTANCE, ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC

Ms. DAWSON. Thank you. Chairman Simon, members of the committee, thank you for the opportunity to appear before you to discuss the role of the Department of Health and Human Services in the implementation of Public Law 102-477, the Indian Employment, Training, and Related Services Demonstration Act of 1992. We in the Department are committed to improving the effectiveness of employment and training services in Indian communities, and we are actively working with the Department of the Interior and the Department of Labor on implementation of this law.

The Office of Family Assistance within the Administration for Children and Families administers the Job Opportunities and Basic Skills Training Program, known as JOBS. JOBS, a comprehensive welfare-to-work program, was created by the Family Support Act of 1988. JOBS provides recipients of Aid to Families with Dependent

Children with the opportunity to take part in activities that lead to economic self-sufficiency, including job training and education. JOBS also helps welfare recipients gain access to vital supportive services such as child care and transportation.

State governments generally have responsibility for administering the JOBS programs. However, under the Family Support Act, Federally recognized Indian tribes and Alaskan Native organizations may operate their own JOBS programs for members who receive AFDC. Currently, 77 Indian tribes, Alaskan Native organizations, and tribal consortia operate JOBS programs. In fiscal year 1993, these grantees received nearly $7 million to operate their JOBS programs. Funding for individual tribal grantees ranged from $3,500 for the Aleutian-Pribilof Islands Association, Inc., to $1.5 million for the Navajo Nation. However, the largest number of tribes—44 percent—received grants between $10,000 and $50,000. We expect fiscal year 1994 funding for the tribal JOBS Program to be slightly higher.

The Indian Employment, Training, and Related Services Demonstration Act of 1992, which was enacted on October 23, 1992, allows tribes to consolidate the funding they currently receive from several Federal agencies in order to integrate their employment and training programs and related services. JOBS funds that a tribe receives under title 4(f) of the Social Security Act can be consolidated into a plan submitted under Public Law 102-477.

ACF staff are working with staff from the Bureau of Indian Affairs, Department of the Interior, and the Employment and Training Administration—ETA—Department of Labor, on the implementation on this law. We have actively participated in a series of meetings that began in December 1992 to ensure smooth implementation. Representatives of several tribes, including the Three Affiliated Tribes of North Dakota, the Cook Inlet Tribal Council, Inc., of Alaska, and the Seminole Tribe of Florida, also attended some of these meetings. All of these tribes have expressed an interest in submitting consolidated plans under the new law.

As a result of this coordination, we now have a signed Memorandum of Agreement among BIA, ETA, and ACF. The MOA provides the management framework for implementing Public Law 102-477 and specifies the roles and responsibilities of each agency with respect to the statute. With staff from the other two agencies, we are developing written guidance for tribes on plan submission and implementation.

In addition, we are finalizing a single program report form and single financial report form, as required by the statute. BIA will send the guidance and reporting forms for review and comment to those tribes that have expressed interest in submitting consolidated plans.

Since the Family Support Act was enacted almost 5 years ago, we have always included BIA and ETA in our efforts to provide program guidance and technical assistance to tribes through workshops, conferences, and on-site visits. Since enactment of Public Law 102-477, we have continued this cooperation on technical assistance activities. In September 1990, ACF awarded a 3-year contract for approximately $379,000 to ACKO, Inc., an Indian-owned business. Under this contract, one Technical Assistance Publication

and Operations Guide was developed and distributed to the tribes. A second Guide on Promising Practices is near completion.

We also held four technical assistance workshops—two in fiscal year 1991, one held jointly with DOL in fiscal year 1992, and a fourth workshop in April of this year. BIA and ETA participated in these workshops. All tribal JOBS grantees were invited to participate as well.

In addition, ACKO, Inc., in coordination with ACF staff, made five on-site visits to provide specialized assistance in areas identified by tribal grantees and ACF staff.

I want to thank you again for the opportunity to testify this afternoon. We look forward to continuing our close working relationship with BIA and ETA as the tribes begin to implement their consolidated programs. We believe this law offers an excellent opportunity to use their employment and job training funds as efficiently and as effectively as possible.

[Prepared statement of Ms. Dawson appears in appendix.]

Senator SIMON. We thank you very much.

Norman DeWeaver, Center for Community Change here in Washington.

STATEMENT OF NORMAN C. DEWEAVER, WASHINGTON REPRESENTATIVE, INDIAN AND NATIVE AMERICAN EMPLOYMENT AND TRAINING COALITION, WASHINGTON, DC

Mr. DEWEAVER. Thank you very much, Chairman Simon, Senator Kassebaum, and Senator Daschle. Thank you very much for sponsoring these hearings. They mark a real turning point in the history of Indian job training programs.

My name is Norm DeWeaver. For the last 15 years, I've had the privilege to serve as the Washington contact point for the Indian and Native American Employment and Training Coalition, which is an informal information network linking tribes and urban Indian organizations, providing job training services to their members through Federal programs.

If I may, I'd like to submit my statement for the record and simply summarize a couple of the key points.

Senator SIMON. Without objection, your prepared statement will appear in the record.

Mr. DEWEAVER. Thank you, Mr. Chairman.

The enactment of the Indian Employment, Training, and Related Services Demonstration Act is one of the most important milestones in the history of Indian job training programs. The law, which was developed under your leadership and with the strong support of members of the Committee on Indian Affairs, has given tribes their first opportunity to orchestrate all their employment and training resources in the same way, toward the same ends. The act takes a crucial first step in bringing resources outside those of BIA and the Indian Health Service into a self-governance framework, the kind of framework which the committee has tried hard to promote.

In addition, the law permits the consolidation of programs in the way it should—at tribal option, when tribes are ready, for those tribes that consider this an appropriate thing to do. Enactment of

the law has been welcomed by the tribes. There has been an enormous outpouring of enthusiasm, more than I've seen in many years, toward what can be done to really strengthen services.

Tribes are particularly enthusiastic that Assistant Secretary Deer, Assistant Secretary Ross, and, we're sure, Assistant Secretary Bane, when she is confirmed by the Senate—tribes are very enthusiastic that they have personally committed themselves to the successful implementation of this initiative. It's extremely important.

At the same time, there are some concerns which tribes are interested in putting on the record in terms of where we are on implementation of the law. The first concern is that Federal agencies treat tribes as full partners in the implementation of this initiative, including the development of implementation procedures and forms. The only experience in dealing with the now separate programs simultaneously is experience at the tribal level. The Federal agencies have generally dealt only with their own programs. The experience in terms of how these programs fit together has been tribal experience, and we feel strongly that that tribal experience should be brought to bear on the development of all the implementation procedures.

In addition, we're happy to see the progress on the Federal side, but in addition to the Federal agencies meeting with each other, we would hope that they would begin immediately meeting with tribes to review the guidance and forms before they go final to ensure that they reflect what tribes really need and want to see in these programs, not simply another Federal view.

Second, tribes are concerned about the pace of implementation. Tribes have taken the deadlines in the law very seriously. Several tribes have already submitted plans. These plans call for implementation on October 1. We are very anxious that plans be reviewed so that they can be approved and implemented on October 1 and tribes not be left hanging because of the fact that they met the deadlines that are provided in the law.

Third, tribes are concerned that Federal agencies not create barriers to the implementation of the law. The tribes look upon this as a demonstration effort and certainly hope that the Federal agencies will, as well, and will be able to innovate in the way these programs are provided, in part to be able, as Assistant Secretary Ross pointed out, to provide a model for what should be done in these programs separately, as well as what can be done in the programs after putting them together.

Tribes are also hopeful that the "related services" aspect of the law will be utilized. There are other programs that are very crucial to job training, such as child care, which tribes would like to incorporate in their plans.

Finally, those tribes that are currently participating in the BIA self-governance projects are very interested in having this new initiative relate very closely with their self-governance compacts. It's a question which has been raised since the law was passed and needs to be answered: What's the relationship between the 477 initiative and the self-governance initiative?

In closing, I'd like to raise one additional matter. Unfortunately, this comes up last. It always comes up last. That's the matter of

data. It really should be first, because it takes good data to run good programs. It takes good information to be able to evaluate what these programs are doing. We currently have some serious problems in terms of the labor market information that's available orIndian people, Indian employment conditions, conditions on Indian reservations.

Section 17 of the law provided for a couple of initiatives to improve the labor market information that's available on the Indian population and on reservation conditions. As far as I've been able to tell, relatively little has been done to implement these. There's a deadline coming up in terms of a report. We would hope that the agencies responsible for this, together with the oversight of the committee, might implement these initiatives in terms of improving the labor market data available on the entire Indian population, both reservation and off-reservation.

We're very encouraged and we're very pleased at the response of the Federal agencies, particularly the Assistant Secretaries and their attitudes toward implementing the law. Tribes are very enthusiastic and wish to go forward as full partners.

Thank you very much. I'd be happy to answer any questions you might have.

[Prepared statement of Mr. DeWeaver appears in appendix.]

Senator SIMON. Thank you. If I may follow through right away with you, you said it is important that the agencies work with the tribes in developing procedures. Is that being done?

Mr. DEWEAVER. At the moment, there's been kind of a hiatus in the communication, and we're very anxious to have that proceed. As I believe Assistant Secretary Ross or Assistant Secretary Deer pointed out, and Ms. Dawson pointed out, there have been some conversations in the past to try and help this get started. Federal agencies have been, quite understandably, concerned about being able to get the program under way, but it is very important that tribal experience be brought to bear.

The tribes have spoken in terms of some kind of work group arrangement, some kind of meeting where they can share their experiences before the Federal implementation procedures are finalized. There are some procedures that have developed in the individual programs that tribes have problems with. We want to make sure that the procedures that tribes have problems with are not carried over into 477. So tribes really want to get together with the Federal people that have been talking with each other about this and to share their expertise with those people in the Federal agencies.

Senator SIMON. Secretary Deer, you mentioned that 55 of the tribes have requested to go into this program. Are these pretty representative, or are these the larger populated tribes? Can you give me a description of who the 55 are?

Ms. DEER. I'd like to call on Lynn Forcia, who has been working on this. She's a member of the Bureau of Indian Affairs' staff, and she has been in constant contact and has done much of this work. So with your indulgence, I'd like to call on her to give more complete information.

Senator SIMON. Sure.

Ms. FORCIA. Sir, of the 12 area offices of the Bureau of Indian Affairs, 10 of them are represented by the 55 tribes that have formally expressed an interest in participation in this program.

Senator SIMON. And do they tend to be larger, tiny? How representative are they of the overall tribal situation?

Ms. FORCIA. The tribes vary quite significantly. We have very large tribes, such as the Navajo Tribe that has passed a resolution for participation. We have very, very small rancherias and groups in California that have expressed an interest. The tribes range from Alaska to Mississippi, and from Florida to tribes in Maine.

Senator SIMON. All right. Thank you.

You mentioned, Secretary Deer, that this could be a model for other tribes, and Secretary Ross says it could be a model more generally. Senator Kassebaum and I both serve on the Committee on Labor and Human Resources that has the primary responsibility in this whole area of job training. Do you think we can, as you look at what's happening—

Let me ask this of all four of you. Can we learn lessons? Is this something that is going to be just a unique experience for 55 tribes, or are there things that we can learn in Topeka, Kansas, and Carbondale, Illinois—just to pick two towns at random here—where we can do a more effective job? I'm just curious as to the reaction of any of you who care to comment.

Ms. DEER. Yes, Senator Simon; I believe that this can be a model demonstration. It's my understanding that in the past each Federal program was there, and each tribe had to respond to all the rules and regs of that particular program. I feel that with this new Memorandum of Understanding between three Federal agencies on this very significant program, this can be copied and utilized. Of course, there has to be the will and the interest on the part of the agencies, but I think having the three Assistant Secretaries here ensures that this will be implemented in our agencies.

I would like to challenge other Federal agencies to look at what we're doing and to think about revising their policies and procedures, because what we really need to do is become a user-friendly, customer-friendly government. In my confirmation testimony, I mentioned that the age of Federal paternalism if over, and we intend to consult with the tribes. The information that's now being drafted, the policies and procedures are in draft form, but the tribes will have the opportunity to comment and to include their suggestions.

Senator SIMON. Under the procedures that you have adopted, if another tribe 6 months from now wants to come in, is that possible?

Ms. DEER. I think so. We're getting a nod from your knowledgeable staff person there, Mr. Montoya. [Laughter.]

Senator SIMON. Secretary Ross.

Mr. ROSS. I think it's an excellent question. The issue of a sort of paternalism or patriarchy is a broad one. Many of the programs we administer, which are pretty fragmented, attempt to ensure that the right thing is done by prescribing how people ought to do things, and I think the assumption in the MOU is that if you can agree with people on what the outcome ought to be and define it together, as partners, and hold each other accountable, then you

can say, "Within the limits of what's legal and moral and otherwise prescribed by the Congress, then you are the people in the best position to figure out how to do it."

The division of labor becomes the difference between the "what," which we have a real interest in being part of negotiating, because we're the investors, and the "how" being done by the folks themselves. To the extent that that turns out to be a more effective way to operate, the lessons are applicable even in Detroit, Michigan, where I come from. So I think there's a lot to be learned from this.

Senator SIMON. Ms. Dawson.

Ms. DAWSON. Well, I would like to say that I know that the Administration and HHS are very committed to seeing this project work. We, too, are very concerned about getting services out to the people who need it.

In terms of employment and training, I think this is a great opportunity to look at how best to get these services to the Indian populations who are now receiving these grants directly through us. Anything that we can do that would facilitate their ability to manage those funds, we think that this is worth studying and certainly worth looking at in terms of a model for other kinds of programs.

Senator SIMON. Mr. DeWeaver.

Mr. DEWEAVER. If I may, Chairman Simon, I'd like to second what Assistant Secretary Ross said about the implications of this, that the idea is to concentrate on people and not paperwork. In the past we've had—for instance, in JTPA—an enormous preoccupation with paperwork. Indian grantees, both reservation grantees and urban Indian center grantees, are very concerned about their people. If this demonstration can turn that around, it has enormous implications. It has implications within the Indian JTPA community for off-reservation groups, urban Indian center groups, tribes that, for one reason or another, do not choose to use the authority in 477. So that it can really be a model.

We've got to use the kind of partnership that Assistant Secretary Deer and Assistant Secretary Ross have stressed in order to really make this work. Once that's done, I think that will revolutionize the way we look at Indian job training and many other Indian services.

Senator SIMON. I thank you. I would just add, I don't think I've ever introduced a piece of legislation that went through so quickly, with such unanimity. Sometimes those kinds of pieces of legislation, once they get enacted, they're not that significant, but here's one that I think maybe we can learn something not just for the Native American community, but for our society as a whole.

Senator Kassebaum.

Senator KASSEBAUM. Thank you, Mr. Chairman. I would just like to add to that comment that so many times legislation founders because there are not capable people there who really want to give their all to the enactment and success of carrying it through, and I would just suggest that we're very fortunate in having the leadership of Secretary Deer to head the Bureau of Indian Affairs and Secretary Ross, who is bringing a keen understanding to some of the sensitivities of this issue, and I think Mr. DeWeaver has been very successful in pointing that out, and Ms. Dawson as well.

To see the three departments wanting to work together and making decisions together, as one of you suggested, is very refreshing, and while the legislation may have been the catalyst, it wouldn't have worked if there were not the people there to carry it out.

Senator SIMON. Absolutely.

Senator KASSEBAUM. So I think that's really important.

I was interested, Mr. DeWeaver, I think you said how important data was and that we need to be able to have that data to help measure results, and as one thinks of what works and what doesn't work, it does seem to me that's terribly important. Do you have any suggestions as far as how one goes about putting that together in a better way?

Mr. DEWEAVER. I do have one, Senator Kassebaum, that I think is extremely important and would mark a departure from the way at least the Labor Department has approached the subject in the past, and that is to look upon this in a context-specific way so that the programs in Kansas, for instance, are judged on the basis of what the conditions are in Kansas, not on what the conditions are in Detroit, and the programs in Detroit are judged on what the conditions are in Detroit.

I think we need to have a data framework for these programs that looks at them in terms of what those local circumstances are and what that program is doing to meet those local circumstances. This means that we stop drawing standardized judgments on the basis of aggregate figures for the Indian community as a whole throughout the United States or for the population as a whole. We need to get to a context-specific way of looking at these things.

I'm very hopeful that the evaluation which Assistant Secretary Ross is about to make of the program will use that as one of its general goals and guidelines. Once we can do that, I think we'll have a much better understanding of what the programs are really doing and whether they're succeeding or not succeeding.

Senator KASSEBAUM. Has that been a problem in the past? I see some heads nodding yes in the audience. [Laughter.]

I would like to explore with Secretary Ross—I know that Secretary Reich, when he visited Wichita, Kansas in August, spoke quite a bit about one-stop shopping, and he's been very much in favor of pulling a lot of these services together, and I think it's a good idea myself. I'd be curious how you, as you've looked at this legeslation in terms of that initiative and in terms of the JTPA Program with the Native American population, are the Native American programs going to be incorporated into the one-stop shopping effort, or is it going to continue to be a separate sort of JTPA initiative that's already now scattered through several different agencies?

Mr. Ross. The one-stop initiative, as it's being talked about at this point, since it's still in the development stages, would really be to encourage States, by providing incentives local labor market by local labor market, to begin to create places or systems, really—because there can be many points of access on an information system—where you could come in, find out what you're eligible for from the 150-plus, or whatever it is, Federal employment and training programs, regardless of who administers them, and get good

basic local labor market information, which would have to include, in the case of a reservation area, that information.

It would be a place where you could get some understanding of what your skills are. Lots of us know what we do for a living. It would take some very creative software to help me figure out what skills I actually have that are marketable. I would welcome such software.

Senator KASSEBAUM. That would be true for us, too. [Laughter.]

Mr. ROSS. I would never propose to assume that it would be true for Senators, but it certainly is for Assistant Secretaries. And a place, then, where you could get job search assistance, and if you determined that you were going to need something more intensive, that your skills weren't translating, that in that labor market you weren't able to sell what you had, you'd be able to sit down with a career counselor and work out an individual reemployment plan that might include repacking what you have, or you might decide you need some more training, that you've got to get a new set of skills or upgrade your existing skills to really have something to sell. Then, from that place, such training or service could be brokered, hopefully among education and training vendors that would be competitive, and you would have good information about how they performed.

Now, that, of course, would be available to all Americans. Anyone. Particularly the front-end part of it, the information and so forth, is intended to be universal. I also think if we are able to succeed with those that are interested in participating under this Memorandum of Understanding, it certainly suggests taking your resources and creating an integrated, coordinated way to help people. It is about putting people and customers before bureaucracy and structure.

So if we're successful at both of those, I think we can say to people, including Native Americans,

You can start to go to places and actually find out what your options are and get some help in making what are very important life decisions.

Senator KASSEBAUM. Secretary Deer, do you have any observations to make on that? Do you think that will work and we can bring in and employ that integration?

Ms. DEER. Yes; I think that it certainly will work. I'd like to make a comment here in terms of streamlining government. We talk a lot about red tape, but I want the record to reflect that it's actually white tape. [Laughter.]

I really appreciate the opportunity to appear before you and to begin this dialog as we start a whole new effort here between the three agencies.

Senator KASSEBAUM. It's impressive, and thank you very much.

Senator SIMON. We thank all of you very much for your testimony.

Our next witnesses are J.T. Goombi, the first vice president of the National Congress of American Indians; Lorenda Sanchez, the California Indian Manpower Consortium; Ida Nadeau, United Tribes of Kansas and Southeast Nebraska, from Horton, Kansas; and Joy Hanley, Affiliation of Arizona Indian Centers, from Phoenix, Arizona.

The Chair will enter into the record a statement by Senator Ben Nighthorse Campbell, as well as a number of other statements from tribal leaders on their response to the legislation.

[Prepared statements of Senator Campbell and other tribal leaders appear in appendix.]

Senator SIMON. Mr. Vice President, I have you listed down as the first witness here, so I'll go ahead and call you. It is not ladies first at this witness table here.

STATEMENT OF JOSEPH T. GOOMBI, FIRST VICE PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS, ACCOMPANIED BY DIANE KELLY, SECRETARY, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. GOOMBI. Thank you, Chairman Simon, Senators. Good afternoon. On behalf of the National Congress of American Indians, I would like to thank the Senate Committee on Indian Affairs for giving us this opportunity to present testimony about the future of our job training programs.

My name is J.T. Goombi, first vice president of the National Congress of American Indians, and former chairman of the Kiowa Tribe. I'm testifying in place of Gaiashkibos, the NCAI president, who regrets that he could not be here this afternoon.

NCAI is the oldest, largest national federation of tribal governments representing tribal governments and the Indian and Alaskan Native individuals. Established in 1944, and preparing to celebrate our 50th anniversary, NCAI is committed to the promotion and protection of Indian and Alaskan Native rights. It is in this spirit that I testify today.

I should add also that President Gaiashkibos has followed very closely the events that we are discussing from his position as a member of the Department of Labor Indian Advisory Committee.

I'll also call on Diane Kelly, who's the Secretary of the National Congress of American Indians and has been involved for over 17 years in the administration of employment and training programs for the Cherokee Nation of Oklahoma, which is the second largest tribe. She also served as the First President of the National Employment and Training Conference in 1980.

It is my understanding that the purpose of this oversight hearing includes a review of the Department of Labor's implementation of section 401 of the Indian Job Training Partnership Act Program and a review of the Department's proposed plans to publish new regulations which will affect greatly the administration of the Indian JTPA Program.

Chairman Inouye and Chairman Simon, the Indian programs authorized under this Job Training Partnership Act are designed specifically to meet the unique and diverse needs of the many tribal governments, and the JTPA law says this clearly in section 401. This provision contains a separate statement of findings and a separate statement of purposes, both of which are exclusively Indian. The law specifically says that programs

> Shall be administered in such a manner as to maximize the Federal commitment to support growth and development, as determined by representatives of the Indian communities and groups served by this section.

The statutory language is illustrative of Congress' intent to make available to tribes programs designed to address more effectively the unique needs of Indian country. It is essential to the integrity of the programs that this design be regarded and preserved.

The Conference Committee report which accompanied the final language of the 1992 amendments to JTPA stated,

> These changes (to the Indian language of the JTPA law) are intended to ensure that special Native American programs directly address Native American needs and further the development of Native American communities in ways determined by the Native American groups themselves.

From the tribal perspective, the special nature of the Indian JTPA Program is all-important.

The law says that these resources are to be used by tribes to further tribal objectives in ways that meet the local tribal needs. Accordingly, we believe that all regulations for our programs must be based on that principle. As special Federal Indian programs, resources in JTPA should be administered in ways consistent with the overall Federal Indian policy. This policy includes acknowledgement of the trust relationship, tribal sovereignty, and self-determination.

When Congress wrote its statement of these principles into Public Law 93-638 law two decades ago, it mandated a change in the way the Federal Government relates to tribes. Indeed, it should not go unmentioned that the genesis of this law was decades of ill-conceived, inconsistent governmental actions that have created some of the worst social and economic conditions in this country.

It is imperative that the Federal Government, through the several agencies, fulfill its responsibilities and obligations to this country's first citizens. NCAI asserts that the principles of tribal sovereignty and self-determination are applicable to all Federal agencies. There is no special exception for the Department of Labor.

I mention all of these issues because they are all an integral part of today's discussion about the Indian JTPA Program and how our job training resources should be regulated.

Mr. Chairman, in January 1992, Department of Labor officials came before the Indian JTPA Advisory Committee and said that they had decided on a redirection for our program. No tribal leader, no grantee had been consulted or agreed to any such redirection. Labor Department officials told us that they had drafted new regulations to impose their redirection on us. There was no opportunity for tribal governments or Indian organizations to be involved in the writing of these regulations.

Labor repeatedly refused to release the actual text of these proposed regulations to grantee communities. Only after this hearing was scheduled did the DOL staff make the text available, and then only during a closed meeting of the Advisory Committee's Work Group on Regulations. The work group was given a 159-page document at the start of the closed meeting and was asked for comments, without any opportunity to consult with the affected tribal governments and grantee communities at large. Most of the DOL offices that control our funding had already approved the text of these regulations.

NCAI asserts that the whole process by which these proposed regulations were developed was a direct violation of the language

in section 401(h) and (l) of JTPA law. That language requires consultation on the drafting of program rules. Moreover, the Department's actions have undermined the intent of Congress when it passed Public Law 93-638 two decades ago and are exactly what Congress prohibited when it passed the Indian provisions of JTPA over 10 years ago.

I'm going to ask Diane Kelly to continue the rest of our testimony here, Mr. Chairman, with your consent.

Senator SIMON. All right. Ms. Kelly.

STATEMENT OF DIANE KELLY, SECRETARY, NATIONAL CONGRESS OF AMERICAN INDIANS

Ms. KELLY. Thank you, Mr. Chairman, and members of the committee. We are most hopeful that we are on our way to resolving these issues.

I would like to comment concerning a September 7, 1993 meeting with the Assistant Secretary of Labor of Employment, which he mentioned earlier in his statements, Douglas Ross, regarding the Department's proposed regulations. At this meeting, we grantees and tribes were given the opportunity to express our grave concerns and objections to a process of regulation development which precluded consultation with the grantees. We are very pleased to report that the Assistant Secretary acknowledged the problematic nature of this process.

We would also like to commend the Assistant Secretary for his commitment to tribal governments and the Indian and Native American JTPA communities to work in a true partnership— what we call a partnership. The Assistant Secretary has agreed to withdraw from further consideration the entire package of draft regulations and to engage in the appropriate consultation with the Indian and Native American grantee community.

Certainly, the special trust relationship that exists between the tribal governments and the Federal Government requires a strong government-to-government relationship. We are very optimistic that the Assistant Secretary, on behalf of the administration, will be diligent in honoring this trust or obligation. The National Congress of American Indians looks forward to participating in a partnership process that will not compromise the integrity of the Indian and Native American Jobs Training Partnership Act Program.

In closing, I would like to articulate the National Congress of American Indians' position adopted on this issue at our last convention for the record. Our adopted resolution calls on the Secretary of Labor, No. 1, to meet with tribal leaders representative of each region of the country to discuss the development, adoption, and implementation; No. 2, to work collaboratively with tribal leaders to design program rules for Indian Job Training Partnership Act programs; No. 3, to remove all regulatory and administrative barriers to the full integration of Indian JTPA resources; and No. 4, to implement the provisions of the 1992 amendments to the Jobs Training Partnership Act which provide for establishing a strong, effective departmental Indian office which will primarily be responsible for Indian employment and training funding, and to

implement the Indian preference in employment provisions of the amendments.

These principles are the key to enabling job training programs to accomplish the objectives set forth in section 401 of the Jobs Training Partnership Act law. Your support and assistance in making this happen is very much appreciated.

Again, the National Congress of American Indians would like to thank you for this opportunity to appear before the two committees today. At this time, I would answer any questions that you may have.

[Prepared statement of Mr. Goombi appears in appendix.]

Senator SIMON. Thank you very much.

Ms. Sanchez.

STATEMENT OF LORENDA SANCHEZ, EXECUTIVE DIRECTOR, CALIFORNIA INDIAN MANPOWER CONSORTIUM, SACRAMENTO, CA

Ms. SANCHEZ. Mr. Chairman, and other distinguished members and representatives of the committees, my name is Lorenda T. Sanchez, and I'm the executive director of the California Indian Manpower Consortium. Our administrative office is in Sacramento, CA. Our consortium has the responsibility for 92 reservations and 48 Indian organizations and communities throughout a 39-county area throughout the State.

I submit for the hearing my complete testimony, which has been submitted previously for the record.

Senator SIMON. Let me just say, I notice your statement is a rather lengthy one. We will enter it in the record, and if you can summarize that, we will appreciate it.

Ms. SANCHEZ. I'm going to summarize that. My primary purpose here was to share with you that the Indian and Native American programs across this country have many, many successful operations, and that the Department of Labor has failed in the entire past 20 months to look at what we've done in their attempt to redirect our programs. Our programs are very necessary and very successful, and that should not be ignored by the Department of Labor. We are very pleased with the recent commitment of Assistant Secretary Ross to work with us and revisit many of the concerns that we voiced over the past 20 months. We need to continue the flexibility in any dialogue or any consideration for future regulations for our Indian programs.

We also will submit for the testimony a full set of the comments, concerns, and proposed recommendations on the current and the proposed draft regulations that were submitted to the Department of Labor.

We're very concerned that some of the draft regulations and the proposed changes in the cost classifications would hinder our programs significantly. One of the points that I do want to make out of the testimony that was submitted is represented by the stack of papers that I have before me. The proposed language in the regulations in regard to cost classifications would have required that our 10 field offices, field staff that work with delivering services, would have been required to fill out their time sheets with supporting

documentation, which is represented by this stack of papers here, in order to meet the accountability language that was proposed in those JTPA regulations.

It's very critical that the Department of Labor look to the Native American grantees, the directors, and the program operators in any such design of our programs. They have not worked in our programs, they do not know or realize what the impact of some of their proposed actions would result in at the local level. This particular function would require anywhere from 45 minutes to two hours per staff person each week in order to account for time, taking away from services that could be provided to clients—very needed services in many of our communities. That cannot be ignored, so in the dialogue that we have in the future it is going to be critically important that we are involved.

There was much discussion previously on Public Law 102-477, and I'd like to just comment that the program is focused right now on tribal governments. We cannot not forget in any redirection, any regulations, or any programs that are designed for Indians in regard to job training the people who live in the urban and rural communities who do not choose to reside on their homelands, but go into these areas to seek a better way of life, and I hope that in anything that we do in the future that all Indians, whether they reside on or off-reservation, in rural or in urban communities, are included.

I'd like to also state that we fully support the actions of the Assistant Secretary to withdraw the draft regulations and begin the consultation process with the Native American communities throughout this country as well as the Employment and Training Council.

We also would like to offer the grantee input. We have hundreds and hundreds of years of combined experience from the grantee community, and we will eagerly provide that input to the Department.

In closing, I would like to say that this is the right time for a partnership, and there's no better place to start than with this new Administration. I feel certain that we can overcome the barriers of the past and work in partnership to meet the challenges of the future. We are not nations divided, because we're representative of many tribes. We differ from program to program because of our individual circumstances across this country; however, we are united because we share similar histories, values, philosophies, ideologies and goals for our people. I thank you for allowing me to provide comment, and we commend your support both in the legislation for the Public Law 102-477 and for the Job Training Partnership Act.

[Prepared statement of Ms. Sanchez appears in appendix.]

Senator SIMON. We thank you, Ms. Sanchez.

Ms. Nadeau.

STATEMENT OF IDA NADEAU, EMPLOYMENT AND TRAINING DIRECTOR, UNITED TRIBES OF KANSAS AND SOUTHEAST NEBRASKA, HORTON, KS

Ms. NADEAU. Thank you, Mr. Chairman. I'd also like to thank Senator Kassebaum for her introduction. My name is Ida Nadeau,

and I've been the employment and training director for United Tribes of Kansas and Southeast Nebraska for the past 16 years. I thank you for taking the opportunity to visit with us today, and I know your time is limited. I request that my entire testimony be submitted, and I'll just cover a few brief items.

Senator SIMON. Without objection, your prepared statement will appear in the record.

Ms. NADEAU. I would like to express a few views of my board of directors on the importance of the Indian Job Training Program to the tribes and the people that we serve in Kansas and Nebraska. United Tribes is a very diversified grantee in that we not only serve four small Indian tribes; we also serve urban areas and isolated farming communities. So we see a little bit of each of the activities.

It's been my pleasure in the past 16 years to watch two tribes in particular—the Sac & Fox Tribe of Missouri and the Iowa Tribe of Kansas and Nebraska—grow from 7 employees to 85 employees and to go from a small rented building to a 2,000-acre complex. All of this has been possible because of the Department of Labor Employment and Training Program. Sixty-eight percent of the employees that are employed by these two tribes have been trained using Department of Labor funds. There's not one tribal household on those two reservations that have not had their lives or a member of their family's improved by the Indian Employment and Training Program, simply because the tribes have been able to determine themselves what the employment and training needs of their own communities are, utilizing existing resources. They need to be able to maintain the flexibility to serve the communities that they represent.

I'm very happy and my board of directors is very happy to hear that the new Assistant Secretary of Labor for Employment and Training, Doug Ross, shares our concern that our programs fit the needs of the people that we serve. We need to not look at grantees or tribes, but to look at the individuals themselves.

We have been in the employment and training business for nearly 20 years, and we know and are very glad that the Assistant Secretary understands that our experience is important in implementing the services of our programs, and we are very encouraged at the commitment to approach the program in a partnership rather than a paternalistic basis. The Department of Labor needs to understand that we are the one-stop shopping for Native Americans. We not only deal with employment and training needs, but other needs that their families have. It's hard to get someone interested in a job when they don't know how they're going to feed their children that night. We are doing these things now.

We now have the opportunity under the partnership that Assistant Secretary Ross has imposed to take a close look at improving our programs. The monitoring program that we have now does not take into consideration our individual clients. I was also happy to hear that Secretary Ross will be visiting grantees. I like to tell the story about the Fed rep that called wanting to know which bus to take from the Kansas City Airport to Horton, KS. Well, you don't take a bus to get to Horton, KS. I don't really tell this as a joke,

but as an example of how out of touch the Department of Labor is with the grantees that they're responsible for monitoring.

We're very excited about the commitment of Assistant Secretary Ross to work in a true partnership and are very eager to work with this process. His commitment has given us new hope for the Job Training Partnership Act.

That concludes my testimony.

[Prepared statement of Ms. Nadeau appears in appendix.]

Senator SIMON. We thank you very much.

Ms. Hanley.

STATEMENT OF JOY HANLEY, DIRECTOR, AFFILIATION OF ARIZONA INDIAN CENTERS, PHOENIX, AZ

Ms. HANLEY. I'd like to submit my testimony in its entirety, and I will attempt to summarize.

Senator SIMON. Without objection, your prepared statement will appear in the record.

Ms. HANLEY. My name is Joy Hanley. I'm a member of the Navajo Nation, and I would like to thank the Senate Committee on Indian Affairs for inviting me to testify before you today.

Presently I'm the director of the affiliation of Arizona Indian Centers, which is located in Arizona. We provide Jobs Training Partnership Act programs to Native Americans that live off the reservation in 11 rural counties in Arizona. My previous experience has been as a school teacher. I was an administrator for the education department for the Navajo Nation, and the former vice president and president of Navajo Community College. So when I came to my job, I was really very happy, because I looked at the opportunities that the job training programs offered.

The only part that I was perplexed about was I was astounded at the paperwork, the redtape, and the bureaucracy involved in the daily operation of the programs. At that time we operated CETA programs, and in the transition to JTPA, although there were many, many positive changes with the law and the regulations, the unfortunate and burdensome part is that the redtape and the bureaucracy also followed into JTPA.

I'd like the committee to know that I truly believe that the employment and training programs are of utmost importance in Indian country. In Arizona we have the largest Indian reservation population in the country. Unfortunately, because of poor economic conditions that exist on many of these reservations, a large number of Indian people leave their homes on their reservations and migrate into the urban areas in search of employment and educational opportunities. Because of the Indian and Native American JTPA programs in the urban areas, we are able to provide many of these people hope and opportunities for a better life.

In the past, I and many Indian grantees have been extremely frustrated with the Department of Labor's arbitrary and capricious manner in effecting our program. Today I'm pleased to tell you that I have a renewed spirit, because last week members of the Native American Advisory Committee work group had a very successful meeting with the newly appointed Department of Labor As-

sistant Secretary, Doug Ross. I won't reiterate what went on at that meeting. You've already heard it three or four times.

But, again, I'm very, very happy and very pleased, and I was very pleased to hear his comments, because I think one of the major things that I am concerned is in the way we evaluate and make programs accountable. I do believe in accountability, as do other Indian grantees, but, unfortunately, the measures that we have right now for measuring our accountability do not measure our success with our Indian clients or participants, but they measure our ability to maintain elaborate, overregulated, well-documented files and records and have no reference as to what the end result is, what effect the programs have on the lives of these people that go through our programs, the effect that these programs have on the community or anything else, but just how well documented our files are. I think it's really unfortunate, and I was, again, very pleased that Secretary Ross was interested in looking at an end product: What is it we want to do?

As an old educator, you know many times you develop methods for your classroom. In running these programs, many times I felt like I was a teacher aide and the teacher sat in Washington, and I was the technician that was given all of these little things on how to do it—how to do this, how to do that. You went one, two, three, four, five, your files had to have this, this, this, and this in this order, and it didn't really talk about the people we are attempting to affect or the people that we do affect.

Our JTPA programs are different than other JTPA programs, and the reasons for this are simple. We have vested interests as Indian people, because we operate programs in our own communities for our families and our friends. We understand the problems and the issues because many of us have experienced and faced similar problems and issues. All of the staff at my organization are Native American. Two of our top staff were originally SETA participants, and they've been there for 18 years.

I would like to thank the committee for their efforts and support of the Indian and Native American JTPA programs and for allowing me the opportunity to speak with you this afternoon. In conclusion, I'm looking forward to a positive working relationship with the new Assistant Secretary, Doug Ross, and the Department of Labor.

Thank you.

[Prepared statement of Ms. Hanley appears in appendix.]

Senator SIMON. I thank you. Let me just add, when you say in your testimony,

> I am in a dilemma. We had been encouraged by the Department of Labor to enroll and provide services to clients who test below the 7th grade level. Because we did just that, we missed one of our performance standards,

This is a problem, not just in your case, but in the JTPA Program generally. We're trying to encourage programs, not just, as we say, cream. Don't just take the easy to employ, but take those who are harder to employ. But that does mean that you're not going to be able to brag about how many people you have employed, and the performance will inevitably drop a little bit.

What I hear from your testimony, among other things, is that the appointment of Assistant Secretary of Labor Doug Ross and his

involvement has improved the situation. Is that correct? Any of you who wish to answer. Is that correct, that Secretary Ross' interest and attitude has been an improvement over what you have had in the past? I'm not knocking anyone, but is that correct?

Ms. SANCHEZ. Yes; very correct. In fact, it's like night and day, the difference, overnight.

Senator SIMON. And what makes the difference between that night and day?

Ms. SANCHEZ. I feel we've been subjected to a paternalistic treatment at the grantee level, and everything's coming from the Department of Labor on what programs you're going to operate, who you're going to serve, and it's by people who don't live in our communities, people who have never had to deal or work with some of the clients, aren't familiar with the needs of the communities. Now Assistant Secretary Ross has sort of opened the door and said, "Tell me. Educate me. Sensitize me to who your people are, what your needs are," and was willing to look at those concerns, those issues, and design and implement a program from the grassroots level up to his office.

Senator SIMON. So when you say that he said, "Tell me what you want"—and this is for the benefit of anyone from any of the departments who may be here so the word gets back—what you want is someone who will listen and then respond, not somebody who is just going to come down and say, "You have to do one, two, three, four."

They're nodding their heads here. I can't get that into the record.

Ms. KELLY. That is correct, Mr. Simon.

Senator SIMON. Pardon?

Ms. KELLY. That is correct.

Senator SIMON. Okay.

Ms. NADEAU. I think just the idea that he has withdrawn the proposed draft regulations and recognizes that grantees with many, many years of experience need to be involved in drafting any regulations indicates to us that he has a real concern about individual programs.

Senator SIMON. Let me just, because you are from Kansas—my colleague Senator Kassebaum has been very interested in these programs, has been very helpful on our Labor and Human Resources Committee, too, in this field, and I just thought you should know that, being from Kansas.

Let me add, to all of you, one of the reasons that you have Members of the House and the Senate is when you find Government agencies aren't responsive, don't hesitate to get in touch with us. That's why we're here. We want to be of help, and we want to handle it delicately so you don't get in trouble with an agency that you have to work with, and I understand the problems there. But we're eager to hear from you, and I'm going to make sure that Doug Ross hears about your testimony, because I think it is a tribute to him.

We thank you for your testimony. Any suggestions you have as we move along—because I think what we're doing on the reservations is something that really can be of help, as I indicated to the earlier witnesses, much beyond the reservations. I think we have a

chance to see if we can't do a better job of working on some of these programs.

Thank you all very, very much.

[Whereupon, at 4:33 p.m., the committees adjourned, to reconvene at the call of the Chair.]

APPENDIX

Additional Material Submitted for the Record

Prepared Statement of Diann Dawson, Acting Director, Office of Family Assistance Administration for Children and Families

Chairman Inouye, Chairman Simon, members of the committee and subcommittee, thank you for the opportunity to appear before you to discuss the role of the Department of Health and Human Services (HHS) in the implementation of Public Law 102-477, the Indian Employment, Training and Related Services Demonstration Act of 1992. We, in the Department, are committed to improving the effectiveness of employment and training services in Indian communities, and we are actively working with the Department of the Interior and the Department of Labor on implementation of this law.

The Office of Family Assistance within the Administration for Children and Families (ACF) administers the Job Opportunities and Basic Skills Training Program, known as JOBS. JOBS, a comprehensive welfare-to-work program, was created by the Family Support Act of 1988. JOBS provides recipients of Aid to Families with Dependent Children (AFDC) with the opportunity to take part in activities that lead to economic self-sufficiency, including job training, work, and education. JOBS also helps welfare recipients gain access to vital supportive services, such as child care and transportation.

State governments generally have responsibility for the administration of JOBS. However, under the Family Support Act, federally recognized Indian Tribes and Alaska Native Organizations may operate their own JOBS programs for members who receive AFDC. Currently, 77 Indian Tribes, Alaska Native Organizations and Tribal consortia operate JOBS programs. In fiscal year 1993, these grantees received nearly $7 million to operate their JOBS programs. Funding for individual Tribal grantees ranged from $3,500 for the Aleutian Pribilof Islands Association, Inc. to $1.5 million for the Navajo Nation. However, the largest number of Tribes, 44 percent, receive grants between $10,000 and $50,000. We expect fiscal year 1994 funding for the Tribal JOBS programs to be slightly higher.

The Indian Employment, Training and Related Services Demonstration Act of 1992, which was enacted on October 23, 1992, allows Tribes to consolidate the funding they currently receive from several Federal agencies in order to integrate their employment and training programs and related services. JOBS funds that a Tribe receives under title IV-F of the Social Security Act can be consolidated into a plan submitted under Public Law 102-477.

ACF staff are working with staff from the Bureau of Indian Affairs (BIA), Department of the Interior, and the Employment and Training Administration (ETA), Department of Labor, on the implementation of Public Law 102-477. We have actively participated in a series of meetings that began in December of 1992 to ensure smooth implementation of Public Law 102-477. Representatives of several Tribes, including the Three Affiliated Tribes of North Dakota, the Cook Inlet Tribal Council, Inc. of Alaska, and the Seminole Tribe of Florida, also attended some of these meet-

ings. All of these Tribes have expressed an interest in submitting consolidated plans under the new law.

As a result of this coordination, we now have a signed Memorandum of Agreement (MOA) among BIA, ETA, and ACF. The MOA provides the management framework for implementation of Public Law 102-477 and specifies the roles and responsibilities of each agency with respect to that statute. With staff from the other two agencies, we are developing written guidance for Tribes on plan submission and implementation. In addition, we are finalizing a single program report form and a single financial report form, as required by the statute. BIA will send the guidance and reporting forms for review and comment to those Tribes that have expressed interest in submitting consolidated plans.

Since the Family Support Act was enacted almost 5 years ago, we have always included BIA and ETA in our efforts to provide program guidance and technical assistance to Tribes through workshops, conferences and on-site visits. Since enactment of Public Law 102-477, we have continued this cooperation on technical assistance activities:

- In September 1990, ACF awarded a 3-year contract for approximately $379,000 to ACKCO, Inc., an Indian-owned business. Under this contract, one technical assistance publication, an operations guide, was developed and distributed to the Tribes. A second guide, on promising practices, is near completion.
- We also held four technical assistance workshops: two in fiscal year 1991, one held jointly with DOL in fiscal year 1992, and a fourth workshop in April of this year. BIA and ETA participated in these workshops. All Tribal JOBS grantees were invited to participate, as well.
- In addition, ACKCO, Inc., in coordination with ACF staff, made five on-site visits to provide specialized assistance in areas identified by the Tribal grantees and ACF staff.

Thank you again for the opportunity to testify this afternoon. We look forward to continuing our close working relationship with BIA and ETA as the Tribes begin to implement their consolidated programs. We believe this law offers Tribes an excellent opportunity to use their employment and job training funds as efficiently and effectively as possible.

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO

Thank your Mr. Chairman. With the enactment of the Job Training Partnership Act amendments last year there has been significant concern from the Native American community regarding the implementation of the amendments and the potential impact the craft regulations would have on the Native American programs.

It is my understanding that Labor officials had developed a package of draft regulations that would severely undermine the unique needs and program effectiveness of Native American grantee programs. Over the course of this year my office has received many letters from Native Grantees expressing the draft regulations were, for the most part, developed with little or no consultation and input from the grantee community.

In section 401 of the Job Training Partnership Act amendments enacted by Congress last year, it is clear that the goal of these amendments is to address the unique needs of Native American grantee programs. This is made very clear by the creation of a permanent advisory council whose responsibility is to solicit the news of a wide variety of Indian tribes and advise and make recommendations to the Secretary with respect to the design and implementation performance standards.

In my home state of Colorado the three Native American grantees were awarded a total of $750,000 during fiscal year 1993. Although this is not an astounding amount, each expressed their concern that the draft regulations would not insure the increased employment of Indian people.

While I am pleased to hear that these "draft regulations" will not go forward, I would like some assurances that Department of Labor officials will make a concerted effort to develop regulations with the close consultation and input from the Native American Grantee community.

In closing, I would like to submit a letter from the Denver Indian Center as part of my statement.

Thank You.

DENVER INDIAN CENTER

July 1, 1993

The Honorable Senator Ben Nighthorse Campbell
United States Senate
Washington, D. C. 20510

Dear Senator Campbell,

Your assistance is requested in resolving an issue between the U.S. Department of Labor (DOL) and Indian and Native American grantees funded under Section 401 of the Job Training Partnership Act (JTPA).

The issue is simple. DOL has developed new regulations for the Indian and Native American programs which would threaten and dilute existing program effectiveness and would not enhance the outcomes of our training programs. Furthermore, the proposed regulations would not insure the increased employment of Indian and Native American people.

In spite of repeated testimony and letters from the Indian and Native American community opposing the proposed rules changes, DOL representatives arrogantly announced at a national grantee meeting that the draft regulations are being submitted to the Office of Management and Budget in July and may be published in the Federal Register in early August.

It should be pointed out that the new JTPA amendments passed last year by the Congress do not require an overhaul of the regulations for the Section 401 Indian programs. I am therefore requesting your assistance in having the Congressional Committees with jurisdiction over Indian JTPA programs hold oversight hearings on the regulations to obtain relevant testimony on these issues directly from Indian and Native American grantees.

For your information, I have enclosed a summary of the issues at stake.

Thank you for your assistance.

Sincerely,

Delmar Hamilton
Chairman of the Board of Directors

DH/ajm
cc: Files

Enclosures

STATEMENT OF [redacted], ASSISTANT SECRETARY - INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, AT THE JOINT OVERSIGHT HEARING BEFORE THE COMMITTEE ON INDIAN AFFAIRS, AND THE SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY, COMMITTEE ON LABOR AND HUMAN RESOURCES, UNITED STATES SENATE, ON THE IMPLEMENTATION OF PUBLIC LAW 102-477, THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992."

September 15, 1993

Good afternoon Mr. Chairman and Members of the Committees. I am pleased to be here today to discuss the status of the implementation of Pub. L. 102-477, the Indian Employment, Training and Related Services Demonstration Act of 1992.

Public Law 102-477 provides tribal governments with the option to integrate their various federally-funded employment, training, and related services into a single, coordinated, comprehensive program. In order to implement this Act, the Departments of Labor, Health and Human Services, and the Interior are in the process of forging a new working relationship. Since December of 1992, these agencies have been working together to combine their resources and expertise to effectively implement Pub. L. 102-477. As required by the law, the Department of the Interior is coordinating this effort.

In March of this year, we sent a letter to all 516 federally recognized tribes and Alaskan Native villages informing them of the enactment of Pub. L. 102-477. A copy of the law was enclosed for their ready reference. At the same time, we solicited their input towards implementation of this Act. On July 30, an announcement was published in the Federal Register inviting resolutions from tribes interested in participating in this demonstration program. We have received 55 tribal resolutions from tribes wishing to participate in Fiscal Year 1994.

The Federal agencies participating in this pilot program are currently meeting weekly in order to complete the necessary steps to ensure timely implementation. The Memorandum of Understanding has recently been signed by the participating departments. We are also in the process of developing a single report form which will reduce the time and cost tribes expend to administer the demonstration program. In addition, we are in the process of developing formal guidance for tribes to follow in preparation of their proposals for participation in the program. This has been the subject of several meetings currently scheduled among the Federal agencies participating in implementing this Act.

We strongly believe in the goals of Pub. L. 102-477 and fully support the demonstration project. This project could serve as a model for other Bureau of Indian Affairs programs as we strive to reduce reporting requirements, reduce regulatory constraints, and other administrative burdens at the tribal level.

This concludes my prepared statement. I will be happy to answer any questions the Committee may have.

73-554 O - 94 - 2

STATEMENT OF [redacted]
ASSISTANT SECRETARY OF LABOR
FOR EMPLOYMENT AND TRAINING
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
AND THE
SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY
OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

September 15, 1993

Mr. Chairmen and Members of the Indian Affairs and Labor and Human Resources Committees:

I appreciate the opportunity to appear before you today at this oversight hearing on the Department of Labor's administration of training and employment programs for Indians and other Native Americans.

Native American programs are authorized by Section 401 of the Job Training Partnership Act. The programs are designed to improve the economic well-being of Native American groups such as Indians, Eskimos, Aleuts, and Native Hawaiians through the provision of job training, work experience, and other employment-related services and opportunities that are intended to enable participants to obtain permanent, unsubsidized jobs. The Department of Labor allocates funds for Section 401 programs through formula grants to Indian tribes and other Native American groups.

Mr. Chairmen, your letter of invitation asked that I specifically address the Department's plans for publishing new regulations for Section 401 programs. We are going to make a fresh start on these regulations. Any prior drafts of proposed

revisions to the Section 401 regulations are now off the table. We will be working closely with the Native American Employment and Training Council in the development of new regulations to implement the statutory changes required by the Job Training Reform Amendments of 1992 and update the current regulations, which were issued in 1983, to incorporate Federal requirements for recipients of Federal funds that have been promulgated since that date. The proposed regulatory changes will be thoroughly discussed with the Council and we will keep the Committees informed of our progress in developing the new regulations.

I also intend to launch an independent evaluation of the Section 401 program and will seek the Native American community's collaboration and assistance on this evaluation.

I will now turn to several other topics of interest to the Committees, beginning with implementation of Public Law 102-477, the Indian Employment, Training and Related Services Demonstration Act of 1992. For some months now, we have been working extensively with the staff of the Departments of Interior and Health and Human Services to develop the single report format for tribes to submit their demonstration project plans, and the single report format for program expenditures.

Public Law 102-477 also requires a Memorandum of Understanding between the Departments of Labor, Interior, and Health and Human Services that I am pleased to announce I signed late last week. This Memorandum of Understanding will be the vehicle to forge a partnership to develop new, flexible approaches to

employment and training programs for Indians and other Native Americans.

The new law and the Memorandum of Understanding will allow tribal governments to request waivers by the Departments of Interior, Health and Human Services, and Labor of any regulation, policy, or procedure promulgated by the respective Department that serves as a barrier to the integration of employment and training programs. Waivers may be granted if they are consistent with the purposes of Public Law 102-477 and with JTPA. It is my intention to be as flexible as possible in granting Department of Labor waivers under the Memorandum of Understanding.

A Native American Employment and Training Council advises the Department of Labor on a broad range of activities associated with Section 401 and other programs providing services to Native Americans. I believe that it is essential that the Council and the Department become partners in working to improve the effectiveness of services to our Native American customers. I would like to develop a relationship with the Council and the grantees it represents that is characterized by honesty, trust, and open communication. The Council has been chartered for a two-year period, and its seventeen members were appointed by Secretary Reich on July 9 of this year. We view the Council as the primary resource for advice and recommendations from the Native American community.

The Job Training Reform Amendments of 1992 amended JTPA Section 401 to require that the Department of Labor "designate a

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single organizational unit that shall have as its primary responsibility the administration of all Native American programs authorized under the Act." I am currently considering how best to structure and locate such a unit within the Employment and Training Administration's organization. While I intend to consolidate functions to the extent that is consistent with the JTPA Amendments, so that Native American grantees will have a single point of contact, there are some constraints. For example, the Office of the Inspector General will continue to have independent auditing and oversight responsibilities with respect to the Native American grantees.

I strongly believe that effective communication needs to be an integral part of our partnership with Native American grantees. We have awarded a special grant to the California Indian Manpower Consortium, a Section 401 grantee, to assist the Department in the identification and dissemination of best practices and in the development and testing of an electronic communications network. This electronic network will permit grantees and Native American Employment and Training Council members to communicate instantly with the Department of Labor and with each other. The network will offer such features as electronic mail; storing and forwarding files such as descriptions of programs that represent "best practices"; electronic reporting; and electronic and video conferencing.

The new communications system will allow grantees to receive information instantly instead of the two weeks it currently takes

for mail to reach some remote reservations and Alaskan villages. Grantees will also be able to search libraries of files and databases for information on how to do their jobs better and how their programs compare with the national average or other programs in their area.

Mr. Chairman, this concludes my prepared statement. At this time I would be pleased to answer any questions that you or other committee members may have.

California Indian Manpower Consortium, Inc.

Central Office
4133 Northgate Boulevard
Sacramento, California 95834
(916) 920-0285

September 2, 1993

The Honorable Doug Ross
Assistant Secretary of Labor
United States Department of Labor
200 Constitution Avenue, N.W.
Room S-2307
Washington, D.C. 20210

Dear Secretary Ross:

On behalf of the Native American grantees who have provided their comments and recommendations regarding the draft proposed regulations, enclosed please find a summary of those comments and recommendations for your review and consideration. This summary is presented for discussion at your meeting scheduled for September 7, 1993 with members of the regulations work group of the Native American Employment and Training Council.

It is our understanding that certain staff at the U.S. Department of Labor feel that the objections being voiced to the proposed regulations are those of only a handful of Native American grantees. This is not the case.

Numerous requests have been made over the last twenty months by many of the Native American grantees to be involved in meaningful dialogue with the U.S. Department of Labor on any proposed "redirection" and, more recently, on proposed regulations. However, these requests have been to no avail. Therefore, grantees were left with no alternative but to obtain a copy of the full text of the proposed draft regulations by other means.

After our initial review of the draft proposed regulations since they were obtained and circulated throughout the Native American grantee community, numerous meetings and discussions have been held among the grantees. Input was provided by more than 75% of the current Native American grantees at meetings held at the local, state, regional, and national levels. Grantees who were unable to attend meetings in person provided their input either verbally or in writing.

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In general, Native American grantees are concerned with how the proposed changes in the regulations will affect the provision of quality employment and training services to the client population. We understand the need for certain changes in program regulations and we feel that regulatory changes needed to comply with recent amendments to the Job Training Partnership Act can be implemented with minimal disruption to grantee operations.

However, other proposed regulatory changes seem to be proposed for the purpose of making the Title IV programs more like the Title II programs, which serves no purpose other than making it easier for staff at the U.S. Department of Labor to monitor and compare the programs. The two programs are not meant to be compared and the uniqueness of the Indian and Native American programs will be lost if this is allowed to happen. Further, the proposed regulatory changes not required by legislation will cause more havoc and serve only to reduce the level and quality of services provided to Native American clients.

We greatly appreciate your taking the time to meet with the regulations work group. We hope that this meeting will allow for further discussions to proceed before final action is taken regarding the proposed draft regulations. Should there be any other information that we can provide in this matter, we will be more than happy to respond.

We invite you to visit our programs both now and in the future so that you can see firsthand the positive results we are able to have as a result of operations under JTPA.

Sincerely,

Lorenda T. Sanchez

Lorenda T. Sanchez
Executive Director

Enclosure

cc: Native American Employment and Training Council
Native American Grantees
U.S. DOL/Division of Indian and Native American Programs

1-L-063-PY93

Statement of Lorenda T. Sanchez
before the
U.S. Senate Committee on Indian Affairs
and the
U.S. Senate Committee on Labor and Human Resources
Subcommittee on Employment and Productivity

September 15, 1993

Mr. Chairmen, Mr. Vice-Chairmen, and other distinguished members of the U.S. Senate Committee on Indian Affairs and the U.S. Senate Committee on Labor and Human Resources Subcommittee on Employment and Productivity, my name is Lorenda T. Sanchez and I am the executive director of the California Indian Manpower Consortium, Sacramento, California. I am most honored that you have made the time in your busy schedules to hear and consider the concerns I have to share with you about the U.S. Department of Labor's lack of interest and effort to expeditiously implement provisions contained in section 401 of the Job Training Reform Amendments and, more importantly, about the lack of meaningful dialogue with the grantee community in the development of proposed regulations that affect the Indian and Native American programs and communities throughout this Nation that are funded under the Job Training Partnership Act.

Last week, Assistant Secretary of Labor Douglas Ross met with members of the Regulations Work Group of the Native American Advisory Council. As a result of that meeting, the draft regulations have been withdrawn from further consideration, and a meeting will be held soon with the Native American Employment and Training Council to discuss regulatory changes that address the aspects of JTPA amendments directly applicable to Indian programs, among other supportive actions to be considered in relation to our programs.

We are greatly pleased that the Assistant Secretary has taken the time to listen to our concerns and to respond to them. We look forward to a cooperative, supportive relationship in the future. Nonetheless, my purpose in being here today, is to provide you with information about the process of the past twenty months in order to educate and inform you as to why our leaders and those of us who administer Indian and Native

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American programs have been so concerned with and opposed to the Department of Labor's actions.

For the most part, the testimony I share with you today has been presented previously to representatives of the U.S. Department of Labor during public comment periods at meetings of the Native American Advisory Council. Had these concerns been received and seriously considered as they were presented, the hearing would not be taking place today.

My comments will focus on both the processes followed and the products which were generated by the Department in their dealings with the Indian and Native American grantee communities. They will address the feelings and reactions of the Indian people.

Over the past twenty months the Department of Labor and Native American Grantees have been discussing the "redirection" issue for Indian JTPA programs. Several public comment periods were held to discuss the Department's "vision" for our direction. It seemed that this "vision" would mean the eventual dissolution of Indian programs as we know them today. With the Indian programs more closely resembling and operating as the non-Indian programs, what would be the reason for continuing the Indian programs at all?

Unfortunately, the "redirection" issue for Indian programs was never resolved, and the enactment of the 1992 Job Training Reform Amendments served to complicate the issue further. While still discussing the "redirection" of Indian programs, suddenly the Department began discussing regulatory changes for Indian programs as well.

The Department failed to meet the requirement that consultation with the grantee community occur during the development of regulations. When proposed regulatory changes began to be discussed, documents were made available by Labor to representatives on the Native American Advisory Council with restrictions and without circulation of the document to the grantee community. We wondered how meaningful consultation could occur with the Indian and Native American community when we weren't allowed to know what regulatory changes were being proposed. Given the Department's

secrecy, grantees had to question the regulations being proposed and were forced to secure copies of the draft proposed regulations.

Native American Grantees do not object to regulatory changes required to meet the Job Training Reform Amendments of 1992. However, we do object to regulatory changes being proposed to make the Indian programs more like the non-Indian programs. Certain staff in the Department seem to feel that such changes are necessary; we wholeheartedly disagree.

To begin, section 401 of the Job Training Partnership Act, as amended, indicates that Congress recognizes that there are serious unemployment and economic disadvantages in Indian, Alaskan Native, and Hawaiian Native communities that need to be addressed by comprehensive programs. Congress also recognizes the unique and special relationship between the Federal Government and Indian tribes, bands, and groups and the need to support growth in the Indian and Native American communities as determined by representatives of those communities. Programs and activities to be available are not limited to such programs and activities carried out under other provisions of JTPA. Rules, regulations, and performance standards are to be developed after consultation with representatives of Indians and other Native Americans. Finally, the amendments specified that the Secretary shall designate a single organizational unit that shall have as its primary responsibility the administration of all Native American programs authorized under this Act.

Clearly, it was the intent of Congress that Indian and Native American programs be separate, distinct programs that reflect the needs of the Indian and Native American communities, that are administered on a national level by staff familiar with the needs of those communities, and with recognition of the purposes and goals of the Indian Self-Determination and Education Assistance Act of 1975 (the Indian Self-Determination Act). More clearly still, we in the Indian and Native American communities felt that this intent of Congress was not being met.

It seemed that staff at the Department of Labor were selectively choosing the amendments to JTPA that they wished to pursue. Not only were they addressing specific

legislative changes that affect all JTPA program operators, they also were trying to implement unnecessary changes in overall program operations of Native American Grantees.

We were concerned about the process that was followed by the Department in the development of the proposed regulations. We heard other testimony to the fact that, by the time proposed regulations are published in the Federal Register they are not likely to be revised to any great extent, nor are they likely to be rewritten, regardless of comments received. By the time proposed regulations are published, they have been through review by all offices within the Department as well as the Office of Management and Budget. Therefore, we wanted to be sure that there would be adequate time for consultation with and input by the Indian and Native American community before proposed regulations began the review process within the Department.

The Indian and Native American grantee community is willingly complying with regulatory changes resulting from the Job Training Reform Amendments as they relate to the on-the-job training activity, the elimination of employment generating services and economic development activities, and relocation of businesses. However, the grantee community opposes regulatory changes dealing with such issues as cost classifications and limitations that were proposed by the Department, the sole purpose of which seemed to be simplifying Department staff's review and monitoring of all JTPA programs. Since Congress specifically recognizes the need for Indian and Native American programs administered by Indian and Native American tribes and organizations, such programs should not be forced to echo non-Indian programs.

The Department also totally ignored the issue of having a strong Indian office with primary responsibility for administering the provisions of the Native American programs authorized under the Act. In fact, the draft proposed regulations even removed authority that had been given to DINAP in the October 20, 1983 regulations, but which authority truly was never allowed to be exercised.

Throughout the process of discussion on the "redirection" issue and more recent discussion on the draft proposed regulations, input provided by Native American

grantees seemed to have been ignored. The Indian JTPA Advisory Committee paper endorsed by the Indian and Native American grantees was also ignored by the Department (see Exhibit 1). We hope that all future strategies for Indian programs include our input.

I would like to review and reiterate concerns expressed by tribal leaders as well as staff from the Native American Grantee community. We are appalled that the Department should expect Indian and Native American programs to imitate non-Indian programs. In fact, several of the proposed changes in the regulations reflect what Native American grantees have done for years: reviewing, relating, and responding to the individual's needs for employment and training assistance. Rather than trying to make the clients meet the activities available through the program, we have been trying to make the program flexible enough to meet the needs of the clients. While we have been accomplishing this for years through a serious assessment process, the non-Indian programs apparently have not been conducting such assessments. Therefore, proposed regulatory changes to the mainline programs to require individual service strategies to be completed were unnecessarily written into the proposed Indian regulations. If we grantees already are doing this, why must our regulations change simply because the mainline program regulations are being changed?

Clients of the Native American Grantees are being encouraged to seek services from non-Indian agencies and organizations. It has been shown repeatedly in the past that Indian and Native American clients are reluctant at best to seek services from non-Indian agencies; they do not receive the understanding at those agencies that they receive through our unique programs. Further, the need for specific Indian and Native American programs was recognized when the legislation was enacted and amended; why does the Department of Labor not recognize such need?

Although we have been told that our programs need "redirection" we have not been told why such is needed. The reviews that have been made of JTPA programs have centered on non-Indian programs. No such review has been conducted of the Indian and Native American grantees but we are grouped with all JTPA programs and told that we

need change. If something is working, we ask, "Why change it?"

The Indian and Native American programs have met with numerous successes. Every Native American Grantee would be happy to provide you with stories of success. Not just success in dollars and cents, but success in terms of improving the quality of life in the Indian and Native American community; success in helping to make individual clients self-sufficient but also secure in their impressions of themselves and their capabilities. We realize that program successes must be measured to some extent in hard numbers. But we also feel that successes should be measured in human terms.

I have provided for your review some information about our organization and its programs [pamphlet in binder and accompanying video]. Our consortium serves 92 reservations and 48 Indian organizations throughout a 39 county service area in the State of California. We have served over 20,000 Indian participants in the past 15 years and are proud of our accomplishments as you can see in reviewing our program materials. We feel that our success is in part due to our familiarity of the specific and unique needs of all the areas we serve. Exhibit 2 is an example of one of our most recent tribal surveys identifying our client and community needs. As we design our future programs, the specific needs are addressed and the participant outcomes will be reflected as human success stories that are the direct result of our employment and training programs.

In addition, I have provided information about the Pala Avocado Project, a project that was started with funding under the Native American Economic Stimulus Programs in early 1979 and continued until 1982 with funding under Title VII of the Comprehensive Employment and Training Act. As indicated in the information, this was a highly successful project, one in which we are extremely pleased to have had a part [Exhibit 3]. The Department of Labor should take stock in the success stories, such as the Pala project. Where by ours programs have clearly demonstrated our ability to build on decades of earlier work in which employment and training tools were used to create a better life for our people and a better future for our communities.

It is important that we sensitize the Department of Labor as to why we express

ourselves in such a caring fashion. And although we are very conscientious about our responsibility and accountability of our programs, we are at the same time very caring in how we meet that obligation. This is why I share the pamphlet [Exhibit 4]. The mini-chart describes traditional Indian values and non-Indian values. Inside there is a medicine wheel which outlines the four races and elements that must be respected equally for their gift of life and the force of graces which are all part of the same human family. It is included in our testimony packet today to enlighten you about how we as native people look and walk through life.

Many Indian JTPA programs are operated with respect to both sets of values. I would hope that the Department would educate themselves and try to understand Indian people, why we do the things we do; why we say the things we say. And why we feel so strongly about what the Department has been trying to do to our JTPA programs.

We realize that there is always room for improvement. But change for change sake is simply not justified. I mentioned earlier that certain proposed regulatory changes would adversely affect our JTPA program. As just one example, I have with me a stack of time studies completed by my JTPA program staff. This same amount of paperwork will be generated every two weeks if the proposed cost classifications and limitations are allowed and imposed. It simply does not make sense for my staff to spend their time keeping such a detailed account of their daily functions in order to report their time correctly at the end of each pay period. More time will be spent keeping track of time spent on their various functions than in providing services to clients who need our assistance. And there would be absolutely no benefit for any staff member to do this other than simply to meet the Department's views regarding cost categories and limitations on expenditures. The revision of our current cost categories would result in additional expenses to modify our accounting and data collection systems, we believe this is unnecessary and not cost effective.

In applying the proposed cost categories to our program operations overall, we would be placed in the situation of having to close at least two of our field offices and reducing up to eight of our JTPA staff positions (Exhibit 5). Labor needs to keep

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in mind that mainline programs have funding levels that allows them to have specialized staff devoted to the various program functions and activities they operate: staff to deal specifically with on-the-job training activity, staff to deal specifically with classroom training, staff to deal specifically with job search training, staff to deal specifically with intake, outreach, assessment, or eligibility determination.

Native American Grantees receive such limited funding that our staff members must be able to deal with all program activities, from intake and assessment through employment or training through job development and job placement. Thus, it simply does not make sense to impose new cost categories and cost limitations on our programs when the current cost categories exhibit the flexibility of the Indian and Native American programs.

In comment on the implementation of P.L. 102-477, the Indian Employment, Training and Related Services Demonstration Act of 1992, we are concerned that an interdepartmental memorandum of agreement has not yet been entered into. Since no such agreement has been finalized and no instructions have been issued to tribes, a barrier has been created in the tribe's process for developing and submitting a plan, designing the operating system, or preparing for the reporting requirements. With no agreement yet finalized between the participating departments, and with no guidance issued from the Department of the Interior, how are tribes to be expected to take action?

We have a number of tribes interested in participating in the demonstration project through a consortium effort. However, we had been informed by staff at the Department of Labor that no JTPA funds will be allowed to be used in a demonstration grant unless all 92 tribes in our consortium will participate. We think that this is not the intent of the legislation. We believe the decision to participate in such a demonstration project is up to the tribes.

We understand that the Assistant Secretary will be reviewing the status of the implementation of programs under P.L. 102-477 and will sign the pending agreement between the Departments. We look forward to his support in this process as well.

The responsibility of the Department is not to put up barriers for Native

American Grantees but to help us design our programs in such a manner that we can meet the needs of our communities. We do not wish to be in the role of adversary with the Department. If this occurs, it will not be the Department or even the staff of the employment and training programs that will be affected - it will be our individual clients who will suffer. Several weeks ago I had an opportunity to visit one of our Indian communities and was so dismayed by what I saw. It was a picture of poverty and despair. My thoughts were disheartening because I could see what this small community would look like if the Labor Department were to pull their small allocation. I cried and made a commitment to work not only for the members of our consortium, but for all Indian communities.

We need to have a consultative, cooperative relationship with the Department, wherein our input is respected and considered. The recommendations made by the Advisory Council, by grantees during the public comment periods held over the course of the past twenty months, and through this hearing need to be considered seriously by the Department of Labor.

Until the recent meeting with Assistant Secretary Ross, there had been no change in philosophy on the part of Department staff regarding either the "redirection" issue or the draft proposed regulations. We now have a ray of hope.

At this time, we fully support the actions of the Assistant Secretary to withdraw the draft regulations and begin a consultation process with the Native American Employment and Training Council. Such consultation must include a review of the positive aspects of the programs operated by Native American grantees to determine if major changes are essential. We know that the grantee community will provide input readily and eagerly if they know that it will be considered earnestly by Department staff.

In closing, I would like to say that it is the right time for a partnership and there is no better place to start than with this new Administration. I feel certain that we can overcome the barriers of the past and work in partnership to meet the challenges of our future.

We are not "nations divided," because we are representative of many tribes or even because we may represent reservation or off-reservation, rural or urban tribes and organizations. We differ program-to-program because of our individual circumstances across the country. However, we are united because we share similar histories, values, philosophy, ideologies and goals for our people.

I thank you again for allowing me to provide you with comments and thank you for your continued support of the Indian and Native American programs operated pursuant to the Job Training Partnership Act. Your efforts are commendable.

UNITED TRIBES OF KANSAS & SOUTHEAST NEBRASKA INC.
Testimony to be presented by [redacted] JTPA Director
September 15, 1993
Oversight Hearing of Section 401 of JTPA
Senate Labor and Indian Affairs Committee

My name is Ida Nadeau and I am and have been the Employment and Training Director for United Tribes of Kansas and Southeast Nebraska, Inc. for the past 16 years. I am here today to express the views of my Board of Directors and its Chairman, Jim DeRoin on the importance of the Indian Job Training Program to the Tribes and the people we serve.

United Tribes is a non-profit corporation in the State of Kansas which is a consortium of the Iowa Tribe of Kansas and Nebraska and the Sac & Fox Tribe of Missouri. The elected respective Tribal Council members comprise the Board of Directors of United Tribes.

United Tribes service area for Title IV programs includes 83 counties in Kansas, 30 counties in Missouri and Richardson County Nebraska. We serve the urban areas of Kansas City, Kansas, Lawrence, Manhattan and Topeka as well as isolated rural farming communities and four small Indian Reservations in extreme Northeast Kansas and Southeast Nebraska. (Sac and Fox Tribe of Missouri, Iowa Tribe of Kansas & Nebraska, Prairie Band of Potawatomi and the Kansas Kickapoo).

When I began working for United Tribes 16 years ago, the Sac and Fox Tribe had 2 employees and the Iowa Tribe had 5 employees. Today the Sac & Fox Tribe employees 20 people

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and the Iowa Tribe 65. Of these 85 employees, approximately 50 have been trained using Department of Labor employment and training funds. Training ranges from heavy equipment operators, farm mechanics, computer operators, community health representatives, and cooks to name a few.

In 1973 the Iowa Tribe was housed in a one room rented office in Hiawatha , Kansas. Today, the Iowa Tribe at its complex on the Iowa Reservation at WhiteCloud, includes an administrative office, service station, restaurant, bingo hall, maintenance building for heavy equipment, grain processing plant, and fire station. They also own a grain elevator and fertilizer application service in Craig, Missouri. The Tribe currently owns 2000 acres of which 1600 are tillable with the balance being timber.

Several years ago, we were able through the Community Benefit activity of the JTPA program develop a farm project with the Iowa tribe that enabled them to increase their beef cattle herd. We realize that this is a little used activity by Grantees but still feel that it should be an option available and not eliminated as called for in the proposed regulations.

The Iowa Tribes most recent project is to form their own construction company to enable them to construct and repair homes within the community.

Iowa Tribal Chairman, Mr. Leon Campbell, stated recently that there is not one household on the Iowa reservation that has not had their lives or a member of

their families improved by the Indian Employment and Training Program simply because Tribes have been able to determine themselves what the employment and training needs of their own communities are utilizing existing resources.

In visiting with Indian Program Grantees throughout the nation it is easy to see that across the board blanket rules will not work. There are enormous differences among grantees, the resources available and employment opportunities available in different locations. Tribes and Tribal Organizations need to be able to maintain the flexibility to serve the communities that they represent. It is an exercise in futility to continue to provide vocational skill training to clients in an area where there are simply no jobs available and the unemployment rate is well over 50%. We do not need well trained unemployed clients who have received skill training as a result of an "objective assessment" and an "individual services strategies" plan. We already have mechanisms in place to determine the training and/or employment needs of our clients and do not need additional paperwork that would further impede us from accomplishing the goal of placing clients into unsubsidized employment.

I am very pleased and my Board of Directors is very happy to hear that the new Assistant Secretary of Labor for Employment and Training, Mr. Douglas Ross, shares our concern that our programs fit the needs of the people that we serve.

We have been in the employment and training business for nearly 20 years and we know and are very glad that the Assistant Secretary understands that our experience is important in implementing the services of our programs and we are very encouraged of the commitment to approach the program in a partnership rather than a paternalistic basis . For instance, we have some very well qualified and trained clients who are currently unemployed and only need a small amount of assistance such as child care, uniforms or relocation costs not available from other sources to put them back in the work force and we should have the right to include these services in our program. Direct placement activities or supportive services only are still consistent with the Act in that they will result in increased employment and decrease welfare dependency and we should have the ability to have these kinds of things available for our clients.

We now have the opportunity under the Partnership that Assistant Secretary Ross has imposed to take a close look at improving our programs. A few ideas that might be considered include things like technical assistance available at our requests based on our own needs to examine new ways to provide services to our clients; having a cooperative arrangement with DOL staff where we sit down and work jointly on what specific areas are needed and to use this type of cooperative effort to replace the paperwork compliance oriented monitoring process which has been very

destructive in the past and to look at a system by which DOL can recognize exemplary programs rather than ridicule and demean those that are having problems. The National Indian and Native American Employment and Training Conference gives awards each year to the employer of the year and the participant of the year. These are selected from nominations from Indian JTPA grantees from across the nation, these types of activities make all of us feel that what we are doing is worthwhile.

We are very excited about the commitment of Assistant Secretary Ross to work in a true partnership and are very eager to work with this process. His commitment has given the name Job Training Partnership Act new hope and meaning.

Thank you for your time and consideration.

TESTIMONY OF JOY J. HANLEY

Good morning, My name is Joy Hanley. I am a Native American, an enrolled member of the Navajo Nation. I would like to thank the Senate Select Committee on Indian Affairs and the Subcommittee on Employment and Productivity of the Labor and Human Resource Committee for inviting me to testify before you today. Thank you.

Presently, I am the Director of the JTPA Title IV-A program at the Affiliation of Arizona Indian Centers, Inc., (AAIC) in Arizona. I have been the director at the Affiliation for fourteen years. At the Affiliation of Arizona Indian Centers, Inc., we provide the Job Training Partnership Act program to Native American people who reside off Indian reservations in eleven (11) rural counties in Arizona.

My previous work experience has been as a school teacher, working with the Navajo Nation in their education department and the Navajo Community College as Vice President. When I first came to AAIC in 1979, they were operating CETA programs. Being an educator, I was delighted at the opportunities that existed in the training programs for Native Americans; however, I was astounded at the red tape, bureaucracy and complexity involved in the daily operation of the Department of Labor's program. When JTPA was enacted, I was very happy to see many needed changes take place in the regulations that would allow for more

flexibility in the operation of the programs. I was also very pleased that throughout the regulations, there was language that reflected the intent of Public Law 97-300, Title IV, Part A, Sec. 401 Employment and Training Programs for Native Americans. The intent provided for the development of a separate program for Indian and Native American communities which addressed their special needs and differences. The unfortunate and burdensome part of the transition from CETA to JTPA was the continuous amount of red tape and paper work that accompanied the program.

I would like the committee to know that I truly believe that the Employment and Training programs are of the utmost importance in the development of job opportunities in Indian country on and off reservations.

In Arizona, we have the largest Indian reservation population in the country. Unfortunately, because of poor economic conditions that exist on many of these reservations, a large number of Indian people leave their homes on their reservations and migrate into the urban areas in search of employment and educational opportunities.

Because of the Indian and Native American Job Training Partnership Act programs in the urban areas, we are able to provide many of these people hope and opportunities for a better life. The priority in our JTPA program is classroom training, this includes adult education and post-secondary training. However, as important as it is for a person to obtain training, we have many clients that are not interested in training but are

only interested in finding employment. Last year, half of our participants were classroom trainees and the other half were participants only interested in seeking employment.

The opportunities provided by the Indian JTPA programs are especially important for us because the U.S. 1990 Census ranked Arizona as the state with the highest Native American poverty rate in the nation.

I would also like to share more information with you about our client population. In 1992, 37% of the Native Americans who came into the AAIC offices looking for employment did not have a high school diploma or a GED certificate. Furthermore, these clients also did not have basic skills or training for entry level jobs. According to the 1990 Census, 48% of the Native American population in Arizona do not have a high school diploma or GED certificate. In reviewing client records, it is obvious that a significant portion of the Native American drop-out population are not seeking assistance. When individuals do not have a GED or high school diploma, it is extremely difficult for them to successfully compete with non-Native Americans for meaningful employment. Unfortunately, it would appear that many Native Americans in the drop-out group become so discouraged that they do not attempt to find employment or training.

Last year, we began testing JTPA participants to determine reading levels. Upon reviewing test scores, it was determined that reading scores of participants were consistently at a lower level than their last grade completed. For instance, if a client

states that he/she completed the 9th grade, then tested, the reading score may show that the client actually reads at the 6th or 7th grade level. A more extreme example is a high school graduate who was tested and found with a reading level of grade 4.

In the past, we have provided opportunities for participants to take GED classes at local community colleges. This past year, we recruited a significant number of participants, who had been tested at reading below the seventh grade level, and we enrolled them in an adult education program. This effort on our part was not successful, because the drop-out rate of this group was so great that it caused us to miss one of our performance standard measures. Because our agency has had quite a bit of experience in adult education, we were not surprised at the results, because drop-out rates of adults at the Adult Basic Education levels are always very high.

In addition to the low level of educational achievement of our client population, there are cultural differences, and language differences, which compounds their efforts in school or in seeking employment. Last year two-thirds of the participants we served were women and one-third of the participants were single head of households.

In the past, I and many grantees have been extremely frustrated with the Department of Labor's arbitrary and capricious manner in affecting our program. Today, I am very pleased to tell you that I have a renewed spirit, because last

week, members of the Native American Advisory Committee Work Group had a very successful meeting with the newly appointed Department of Labor Assistant Secretary, Doug Ross, and reported improvement. At this meeting, Assistant Secretary Ross agreed to immediately withdraw from further consideration, the entire package of draft regulations written by the Department of Labor staff without any consultation with grantees. He further agreed to implement the 1992 JTPA amendments affecting the Indian programs. Most importantly he agreed to work and consult with the Indian grantee community and to acquaint himself with Indian culture and the "Indian way" of doing business. I am looking forward to a new spirit of cooperation and development between the Indian grantee community and the Department of Labor. I am sure that with frank open discussions, many positive changes can be made in the programs that will have a gainful effect on the people we serve, the unemployed, underemployed and economically disadvantage Native American people who live on the reservations, or in the urban areas.

Furthermore as a grantee, I believe in accountability and evaluation and I look forward to meeting the Assistant Secretary, so that I may share my concerns with him. As I stated earlier, for years, I have been concerned about the red tape and bureaucracy involved in operating our programs. I am concerned because the measures of accountability designed by the Department of Labor for the Indian programs do not measure our success with Indian participants, but measure our ability to maintain

elaborate, over regulated, well documented files and records.

Our JTPA programs are different than other JTPA programs, and the reasons for this are simple. We have vested interests, because we operate programs in our own communities for our families and friends. We understand the problems and the issues, because many of us have experienced and faced similar problems and issues. All of our staff at the Affiliation of Arizona Indian Centers, Inc., are Native Americans. Two of our top staff were originally CETA participants in our organization. Both have been with our organization for eighteen years. One became our comptroller after having completed business school in accounting, and the other completed a GED, while working in our office.

I am eager to see our programs influenced by policy and regulations that reflect our concerns and our needs. This is of utmost important when staffing the new Indian Unit to be set up within the Department of Labor. This is an especially important concern in identifying a new director for the Indian Unit. I am hopeful, that new staff will have background and experience in Indian JTPA programs. Unless DOL staff have this actual experience, there will be a large misunderstanding of what actually happens in the day to day operation of our programs, especially when it comes to proposing and developing regulations for these programs.

Presently, I am in a dilemma. We have been encouraged by the Department of Labor to enroll and provide services to clients who test below the seventh grade level. Because we did just

that, we missed one of our performance standards. Any experienced Adult educator would have predicted the results of a high drop-out rate among Adult Basic Education students. DOL officials on the other hand have told us that these students must make significant gains. What do we do? We have performance measures to meet, how can we continue to try to provide services, when we know that the results are always going to be dismal. I am hopeful that in the future that Performance standards can be based upon the opportunities that our participants have gained in our programs that will result in meaningful lifestyles, and that we are not penalized because we attempt to provide services to a group that are in great need of these services.

Another area of concern is training and technical assistance for grantees. There is a real need for the Department of Labor to provide for meaningful Training and Technical assistance for grantees. Again, in the past, these sessions are based on the vast amount of rules and regulations that grantees must abide by in order to successfully operate a program. There is very little emphasis on actual activities of programs and needs of the participants.

I would like to thank the committee for their efforts and support of the Indian and Native American JTPA programs and for allowing me the opportunity to speak with you this afternoon. In conclusion, I am looking forward to a positive working relationship with the new Assistance Secretary, Doug Ross, and the Department of Labor.

AMERICAN INDIAN COUNCIL
INDIAN EMPLOYMENT AND TRAINING PROGRAM
310 ARMOUR ROAD, SUITE 205 • NORTH KANSAS CITY, MISSOURI 64116 • 816-471-4698

September 8, 1993

The Honorable Paul Simon
Chairman, Employment & Productivity Subcommittee
Committee on Labor and Human Resources
United States Senate, Room SD462
Washington, D.C. 20510

Dear Mr. Chairman:

As Chairman of the Board of Directors for the American Indian Council, I am requesting the following writ[illegible]mitted for the consideration of the Senate Labor and [illegible]nection with the September 15, 1993 hearing[illegible]PA Le[illegible]

The American [illegible] Council is a n[illegible]ion Incorporated in the state of Miss[illegible] American Indi[illegible]rated since January 1, 1975, under Sect[illegible]ive Empl[illegible]d Training Act; and, subsequently u[illegible]ction 401, Job [illegible]ip Act as an Urban Consortium Gro[illegible] Our [illegible] deli[illegible] in [illegible] the states of Missouri and Iowa. In[illegible]rvic[illegible]e acc[illegible]in Missouri for eighty-five ([illegible]nties, and, in [illegible]for [illegible](5) [illegible]. American Indian Council presen[illegible]esses a po[illegible]on ba[illegible]Census data of 26,725 American Indian[illegible] consist[illegible]ive ([illegible]es. Sites of service are: Kansas Ci[illegible]. Louis, M[illegible]ri; Spr[illegible]ld, Missouri; Sioux City, Iowa; and, [illegible] Iowa. Each [illegible] mana[illegible] an Employment Specialist. The [illegible]TPA program is hig[illegible]to Indian and Native American people in the communities served by [illegible]dian Council. Our Urban Native Americans [illegible] very unique and undergo obstacles and circumstances beyond their control such as culture shock; homele[illegible]s; learning basic life skills; health maintenance; reliable [illegible]portation; orientation to the world of urban work force; dependent care; vocational training; work experience; on the job training; job search and referral; and, unsubsidized employment. Without our Indian JTPA program to insure the unique services, our Urban Native Americans will most likely become lost in the mainstream and unable to survive.

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The American Indian Council is opposing the draft regulations. Specifically to the following issues that will only hurt the programs' ability to serve the Indian community who are in dire need of program services:

1. Lack of any regard for the principle of self determination.
2. DOL's attempt to dictate who a tribe or organization may serve and what services it may provide regardless of local needs and circumstances.
3. DOL's drive to do away with small grantees.
4. DOL's failure to implement the 1992 amendments to the Indian provisions of JTPA 9failing to establish a strong Indian office with real authority over the program).
5. Sec. 632.37; draft regs cost classification mandates the use of three cost classifications which are only workable for Title II-A and Title II-C programs.
6. Sec. 632.37(c); draft regs direct training services - includes staff travel and staff training cost "used in providing assessment, counseling, and training to participants," which would mandate that all staff time and related expenses involved have to be separated, by timesheet, from other cost incurred by the same staff persons. This creates a huge paperwork burden for all staff. Each day, approximately two (2) hours per day would be spent by a field staff person documenting every service provided to clients and logged into cost categories. That is a total of ten (10) hours per week; over one (1) eight hour day; forty (40) hours per month; and, four hundred and eighty (480) hours per year alone on documenting services for cost categories. The above wasted man hours does not include the time spent for Administrative fiscal staff to again break down cost categories for payroll and DOL reporting purposes. If you estimated one (1) hour spent with each client for services you would be denying services for four hundred and eighty (480) Native Americans each program year for one grantee.

JTPA Title IV grantees do not receive the large dollar grants that state city grantees do, so they can not afford to hire more employment specialists and administrative staff to document this drafted cost category documentation burden. Most of all, we can not afford to deny services to four hundred and eighty Native Americans per year, per grantee.

If the draft regulations do become effective 7/1/94, the American Indian Council could be forced to close down one site office in order to cover cost needed for required documentation of cost categories. That alone would mean those clients in that site office area would have to travel over one hundred and fifty miles for JTPA services.

That is just to mention the impact of one drafted mandated requirement. American Indian Council recommends that Department of Labor withdraw the draft regulations package and begin a good faith consultation process with Indian leaders and program managers on what changes in program rules would actually improve the program, as an Indian and Native American program.

Yours very truly,

George E. Barta
Board Chairman

cc: State of Missouri Congressional Delegation
State of Iowa Congressional Delegation
William L. Clay
James M. Talent
Richard A. Gephardt
Ike Skelton
Allen Wheat
Pat Danner
Mel Hancock
Bill Emerson
Harold L. Volkmer
Fred Grandy
Charles Grassley
Tom Harkin

73-554 O - 94 - 3

WRITTEN TESTIMONY ON INDIAN JTPA

DRAFT REGULATIONS

SUBMITTED BY: LUMBEE REGIONAL DEVELOPMENT ASSOCIATION
(LUMBEE TRIBE) - CHAIRMAN ADOLPH BLUE

For consideration of the Senate Labor and Indian Affairs Committees in conjunction with the September 15, 1993 hearing on Indian JTPA issues, this written testimony is submitted on behalf of over 60,000 members of the Lumbee tribe; our tribe has operated employment and training programs since the early 70's; our service area has a great need for the employment and training services as the following information will verify:

Based on the 1980 Census, the total Indian population for Region N is 40,356 of which 11,933 or 30% of the Indian population are within the poverty guidelines, which far exceeds the 11% of the white population identified as falling within the poverty guidelines.

The most recent per capita income data for Region N is as follows: Robeson County, $5,644, county rank 89; Scotland County, $5,707, county rank 56; Hoke County, $4,888, county rank 100; Bladen County, $5,695, county rank 88; compared to North Carolina per capita income of $7,832 and the United States per capita income is $9,511.

Drop out rates for Indian and/or minorities continue to be far above the state level; the overall dropout rate for North Carolina decreased by about 5% while the dropout rate for the Public Schools of Robeson County increased 10%. Of the 699 Robeson County students reported as dropouts in the 1989-90 school year, 409 were Indian, 175 Black and 115 White. More specifically, on the competency test, there is almost a 30% difference in the reading and math scores of the Indian students as compared to the White student.

The above mentioned statistics have an immense impact on the employment opportunities for the Indian youth who have dropped out of school with little or no work experience. High school dropouts who can't find employment are more likely to become involved in illegal activities. Youthful offenders may account for the higher crime rate in Robeson County. While the state crime rate has continued to decrease, Robeson County is increasing.

In summary, 60% of the Indian population in Region N had less than a high school education with the majority 44% having less than an 8th grade education

The above statistics are indicative of the intent of the "ACT" Title IV, part A, Sec. 401(a) states-The Congress finds that (1) serious unemployment and economic disadvantages exist among members of Indian, Alaskan Native, and Hawaiian

Native communities; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantages among individual members of those communities and to the advancement of economic and social development in the communities consistent with their goals and lifestyles.

Based on the above we oppose DOL's attempt to write Indian regulations to conform with state or local SDA's which are funded under Title II of the JTPA Act.

The 1992 amendments and the proposed regulations will drastically change the effectiveness of the services currently being provided by our organization. More specifically, we oppose the removal of "Community Benefit Projects". Since the mid 1980's, our tribe has utilized this component and we feel we have been very successful in carrying out the intent of the program.

One project that has been very beneficial to the Indian community was the renovation of a "swimming pool" that had been closed and vandalized. This project provides a decent place whereby youngsters can participant in a well supervised program. It also provides an opportunity to develop skills that otherwise may not have been realized.

Other proposed changes that will affect our operations are:

a) DOL's attempt to dictate what services a grantee can provide regardless of the local needs and circumstances.

As stated before, each grantee has its own unique circumstances and therefore should be allowed to provide services as determined by each local grantee.

b) The amendments provide for DOL to implement a division of Native American offices with real authority to deal effectively with Indian grantees.

c) The revised scope and purpose of the proposed rule is a major concern. The draft language dilutes the intent of Congress with regard to Indian JTPA programs.

d) The issue of a self-contained document is very important. All referenced material should be included within the document so that all requirements are clear to grantees, and all the information is in one place.

e) The Indian program is clearly established as a

special program to serve Indian needs. It is inappropriate to adopt requirements intended for Title II and developed without any regard for Indian needs and special circumstances.

f) The Department's document states that DOL has discussed the preliminaries of the statutory and the proposed basic changes at recent meetings of the Advisory Committee, Work Group and at grantee meetings. We do not consider these to have been consultations. Consultation is talking with people before decisions have been made, not after they have been made and cleared by many Departmental offices.

g) The document references an Advance Notice of Proposed Rulemaking. No ANPR was ever published on the Indian regulations. The comments made by grantees on the issue of whether the Indian regulations should be independent of those for other JTPA programs have not been adopted by the Department.

h) We object to deleting the word "DINAP" and substituting the word "Department." This is contrary to the intent and letter of the amendments to Section 401 requiring an Indian office with real authority over the Indian program.

i) The document has been under development within DOL for many months and has gone through a number of offices. However, it still contains many obvious, erroneous references and cross-references.

j) We find no evidence that the program needs to be redirected in the ways that would be mandated by the proposed regulations.

k) This is the first time in 20 years that the Department has gone through the process of developing Indian job training programs regulations without close dialogue with Indian grantees and the sharing of draft text of such regulations at every step of the process.

l) We object to the lack of Indian involvement in the writing of regulations from the DOL staff side.

m) DOL needs to review all the comments from the Kansas City TAT session and all the public comments made at every Advisory Committee meeting since January of 1992 and should take these comments into consideration. There is no

evidence that DOL has done this in this draft.

n) We consider the only appropriate way to develop regulations for the program is to start a conversation at the DOL policymaking level, based on Indian needs, circumstances and goals, and to jointly develop a text in a full and open discussion with the grantee community.

o) To properly analyze the proposed regulations, it is necessary to carefully compare the current regulations and the proposed regulations with all cross-referenced documents. All of this material should have been made available to grantees.

p) We strongly object to the proposed changes in the classification of program costs and the proposed restrictions based on the new cost categories.

q) The Department should have proceeded only with the development of those rule changes necessary to comply with the mandatory provisions of the 1992 amendments specifically applicable to Indian programs, leaving all other issues for full consultation with grantees in the ways suggested above.

r) We consider the way in which DOL has gone about drafting the current document to be a violation of the consultation requirement that has been in the JTPA law for the last ten years.

s) The document indicates that the proposed rule contains no new collection of information requirements. The statement is false. The "objective assessment" and "individual services strategies" documents which would be mandated under the proposed rules are major new information collection requirements for grantees.

t) We object to the deletion of material in the current regulations with respect to the responsibilities of the Department. The 1992 amendments contain very specific additional responsibilities of the Department. These should be incorporated into the regulations governing the program and the current responsibilities retained.

u) The real issue here is the development of regulations which can truly serve Indian and Native American needs consistent with the goals and objectives of Indian tribes and Indian and

Native American organizations.

In conclusion, we feel that Labor should withdraw the draft regulations package and begin a good faith consultation process with Indian leaders and program managers on what changes in program rules would actually improve the program, as an Indian and Native American program.

SUBMITTED BY: Adolph Blue
Adolph Blue, Chairman of Board

DATE: 9-9-93

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EARL CUMMINGS
JAMES HARDIN
Executive Director

September 9, 1993

The Honorable Paul Simon, Chairman
Employment & Prod. Subcommittee
Committee on Labor & Human Resources
United States Senate
Washington, DC 20510

Dear Senator Simon:

The Department of Labor in proposing new regulations for the Division of Indian and Native Americans Jobs Training Program.

These regulations are opposed by all of the tribes and organizations. Our tribe's position on these changes are attached.

The program works well now in Indian Country and the new proposed regulations have not had proper review and consultation with D.I.N.A.P. grantees as required in the law.

Your help in this urgent matter in needed. Your Senate Labor Committee will hold hearings on this matter September 15th. Please support the grantees in this important matter.

Sincerely,

Adolph Blue
Chairman

"Land of the Lumbee"

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Indian and Native American Employment and Training Coalition

Testimony presented to the:

Committee on Labor and Human Resources

Committee on Indian Affairs

United States Senate

Regarding the Implementation of Public Law 102-477

By:

[redacted]
Washington Representative
Indian and Native American
Employment and Training Coalition

Wednesday
September 15, 1993

Information Office: 1000 Wisconsin Avenue, Northwest, Washington, D.C. 20007 (202) 342-0594 FAX: (202) 342-1132

Thank you Chairman Simon and Chairman Inouye and Committee members.

My name is Norm DeWeaver. For the last fifteen years I have had the privilege to serve as the Washington Representative for the Indian and Native American Employment and Training Coalition. The Coalition is an informal, information network linking the tribal governments and Indian and Native American organizations participating in federally-funded employment and training programs.

The enactment of the Indian Employment, Training and Related Services Demonstration Act is one of the most important milestones in the history of Indian job training programs.

The law, developed under your leadership, has given tribes their first opportunity to orchestrate all their employment and training resources in the same way toward the same ends. The Act takes a crucial first step in bringing resources outside those in BIA and IHS into a self-governance framework. In addition, the law enables program consolidation to proceed in the only way it should – at tribal option and under tribal control.

Enactment of PL 102-477 has been welcomed enthusiastically by many tribes. The law is itself a product of the ideas of tribes and the leadership of your Committees.

From the beginning a number of tribes have stepped forward to press for swift implementation of this initiative. Among others, these have included the Three Affiliated Tribes of the Fort Berthold Reservation, the Cook Inlet Tribal Council, the Seminole Tribe of Florida, the White Earth Tribal Council,

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the consortium of tribes served by the California Indian Manpower Consortium and the Cherokee Nation of Oklahoma.

A number of these tribes went to the Bureau of Indian Affairs as early as last December to press for swift Executive Branch action in the implementation of the law. Tribes also demanded a direct role in the drafting of implementation procedures.

As the months have gone by, more and more tribes have expressed interest. I have participated in a number of national and regional level discussions of PL 102-477 during this time. Most of these discussions drew overflow crowds as tribal leaders and staff offered their ideas, concerns and questions.

Tribes are particularly heartened that the recently confirmed Assistant Secretary of Interior for Indian Affairs, the Honorable Ada Deer, and the new Assistant Secretary of Labor for Employment and Training, the Hon. Doug Ross, have both expressed their support for the law and the promise it holds. We look forward to similar support from Ms. Mary Jo Bane as soon as she is confirmed as Assistant Secretary of HHS for Children and Families.

The first "477" plans developed by tribes illustrate the importance of the law.

By allowing tribes to treat all their clients in the same way, regardless of the funding source behind the services programs will be able to bring the best of the practices of each individual program to all their participants.

The early plans developed under PL 102-477 also focus on support for the economic development projects of the tribes. This is a major theme of the plan of the Three Affiliated Tribes and the concept being pursued by the California Indian Manpower Consortium.

All the plans take advantage of the mandate in the law for a radical reduction in the paperwork now associated with employment and training programs. Under the law, a single plan, single budget and single program and financial reports are to replace the many separate documents associated with each of the now-separate programs.

At the same time tribes are stepping forward to explore the promise in the new law, they have raised a number of concerns. I would like to summarize some of the principal ones.

The first is a concern that the federal agencies treat the tribes as full partners in all aspects of this initiative, including the development of implementation procedures and forms.

The only experience in dealing with the now-separate programs simultaneously is the experience at the tribal level. Tribes know where the federal barriers lie that have blocked the integration of their job training services. They have had to deal with these barriers for years.

On the federal side, each agency has had the luxury of dealing only with its own program or programs, often with little thought as to how the agency's own program will or will not interact with other tribal employment and training services.

The expertise on program integration which exists at the tribal level must be used in the shaping of all aspects of this initiative which have a bearing on what happens at the tribal level.

There is no real consultation process in place now. One must be put in place immediately.

Secondly, tribes are concerned about the pace of federal implementation of the law. The Memorandum of Understanding which, by law, was to have been executed within six months of enactment is only now, eleven months after enactment, reaching the signing stage.

At this point, there is no assurance that tribes that submitted their plans in early July will have those plans approved and be able to draw on their funds on October 1st – the start of a new fiscal cycle for the BIA and HHS programs, and the start of many tribal fiscal years.

Thirdly, tribes are concerned that the federal agencies not create barriers to participation, either in the implementation procedures or in the review and approval of plans from individual tribes, inter-tribal consortia or Alaska Native organizations. As we have found from experience, giving tribes more control over their own federally-funded services is not universally popular among Executive Branch staff. Tribes look to the leadership of the agencies at the Assistant Secretary level and to the continued oversight of your Committees to insure that tribes are really given the opportunity that was provided for them in the law.

Fourth, tribes look upon this as a demonstration effort – one which should encourage innovative, tribally-determined approaches to long intractable employment problems. Tribes expect the federal agencies to make an explicit commitment to innovation on their part as well.

Fifth, tribes ask that all the federal agencies respect the views of tribes, as expressed in their plans, as to which "related services" programs may be included within their "477" budgets.

For example, on a number of reservations and in many Alaska Native areas child care is seen as a service essential to enabling Native people to participate in training and to seeking and holding a job. The Child Care and Development Block Grant program in HHS funds many of the necessary child care services. In a number of places this program is administered by the tribal employment and training staff.

Several of the tribes using the Child Care Block Grant funding in this way are anxious to incorporate this money directly into their "477" plans. Tribes expect HHS to support this approach.

Finally, those tribes who are interested in or already are participating in BIA's self-governance project have a right to insist that "477" be implemented consistent with their compacts with the federal government. The self-governance concept must extend beyond just BIA and IHS programs. PL 102-477 is the first opportunity to make this happen.

Tribes look forward to the successful resolution of all these issues, particularly in view of the personal support of Assistant Secretaries Deer and

Ross and the interest of your Committees in seeing this initiative launched successfully.

In concluding, I would like to raise one final matter. This concerns Section 17 of the Act, which mandates a serious review of the labor market information which various federal agencies collect on the Indian and Alaska Native population. Senate Report 102-188 describes the need for this review and the inadequacies of our current sources of population, employment and other information on Native people.

Little has been done to implement the Section 17 mandates. The law requires that the Secretary of the Interior provide a report on the status of current information sources and the need for improvements. The study involved is to be done in consultation with the Bureau of the Census and the National Indian Policy Center. The report is to be delivered within twelve months of the date the law was enacted.

There's only a month to go before this report is due. To the best of my knowledge, the study has yet to be initiated.

Tribes need good information to design good programs. Federal agencies and the Committees of the Congress need good data to understand the circumstances tribes face. The Section 17 initiatives are crucial and must proceed as the Committees intended when this language was added to S. 1530.

Thank you for this opportunity to review the tribal experience to date with PL 102-477. I would be happy to answer any questions you may have.

TESTIMONY FOR SENATE HEARINGS ON U.S. DEPARTMENT OF LABOR DRAFT INDIAN JTPA REGULATIONS

Washington, D.C.
September 15, 1993

SUBMITTED BY:
Harry D. Early
Governor

PUEBLO OF LAGUNA
P. O. Box 194
Laguna, New Mexico 87026

TESTIMONY FOR SENATE HEARINGS ON U.S. DEPARTMENT OF LABOR DRAFT INDIAN JTPA REGULATIONS

The Pueblo of Laguna is located in north central New Mexico, 30 miles east of Grants and 45 miles west of Albuquerque, which is the largest metropolitan area in the state. The Laguna reservation covers 553,434 acres that span across Cibola County with boundaries extending into Bernalillo, Valencia and Sandoval Counties. Interstate 40 runs from East to West through the center of the reservation. The Pueblo is comprised of six villages which include Paguate, Mesita, Paraje, Seama, Encinal and Laguna.

Laguna was the last of the nineteen Pueblos in New Mexico to be established. The current tribal enrollment totals 7,129, of which approximately 3,500 reside on the reservation. This figure does not include non-Indians and Indians of other tribes.

Throughout the existence of the Pueblo, the people have strived to preserve their culture while trying to adapt to constant change. For example, from 1953 to 1982, the Anaconda Uranium Mine operations operated the world's largest open-pit uranium mine, which was the Jackpile Mine. This operation provided the tribe with considerable royalties and employment for approximately 500 tribal members. However, in 1982, the closure of the mines resulted in a tremendous shock to the economic base. This subsequently led to an unemployment rate of 70%. Another obstacle the people faced was that the skills they used in mining operations had little or no transferability to the existing job market (s). Although retraining programs were implemented, without commercial industries, the Pueblo continued to experience an extremely high unemployment rate and loss of revenue.

Emergence of other tribally-owned and operated businesses, since the closing of the mine, has helped reduce the unemployment rate which remains at an estimated 23%. The tribe has since tried to meet employment demands through the development of tribal entities such as Laguna Industries, Inc. (LII), Laguna Construction Company (LCC), Laguna Commercial Center Enterprise, Laguna Rainbow Elderly Center (LRC) and the Tribal operations.

The Pueblo of Laguna has successfully used the JTPA program since 1983 when the JTPA was enacted by the U.S. Congress. Since that time, the JTPA funding resources have helped to reduce the high unemployment rate that has plagued the Pueblo since the closure and complete shutdown of the uranium mining and milling operations in 1982.

For instance, the JTPA program provided the start-up labor for the tribally-owned and operated businesses through allowable activities such as On-the-Job Training (OJT), Classroom Training (CRT), Community Service Employment (CSE) and Work Experience (WE).

Between 1986 and 1992, the JTPA program has succeeded in placing approximately 200 individuals into unsubsidized employment, following a period of training subsidized by JTPA funding. Of this approximate total, 72 former JTPA participants are now permanently employed by the Pueblo, while the remaining are employed by other entities, both on and off the reservation. Others have been placed into employment directly, i.e., without receiving any formal JTPA-subsidized training, otherwise known as Direct Placements.

The Pueblo depends on the JTPA program to meet its manpower needs through the placement of participants in work activities such as Work Experience and / or Community Service Employment. It is understood that the Pueblo will give first consideration to hire those JTPA participants who are placed within the tribal structure.

The Pueblo and other local governmental agencies depend on the JTPA Summer Youth Program to, not only help meet their manpower needs, but they are interested in providing training to our youth. In a community such as Laguna, the youth represent the future of the Pueblo; therefore, the Pueblo is continually seeking resources to ensure that the Pueblo youth are guaranteed a place in today's society. Participation in the summer employment programs have helped to reinforce positive attitudes in our youth. Many of our youth suffer from low self-esteem, and the JTPA program provides activities to support the need to turn negative attitudes into positive attitudes.

The adult population is also faced with many of the social ills that pervade our country, and participation in our JTPA program gives them an added push to reinforce positive attitudes. without the JTPA program to provide employment and training, many of the tribal members would still be totally dependent on public assistance. Any disruption of the current system would only hurt our Pueblo. Since the enactment of the JTPA, the Pueblo has enjoyed the flexibility of developing and operating program activities that are suited for our Pueblo. Although there are nineteen Pueblos, two Apache tribes and Navajos in New Mexico, each entity, non-the-less, has its very own unique and different problems. Therefore, it is very crucial that the regulations that currently govern Indian and Native American JTPA programs remain intact, as much as possible.

Any attempt to enforce unnecessary or otherwise non-legislated changes to the regulations would only serve to harm the long-standing relationships that Indian tribes have enjoyed with the Federal government in the usage of Federal funds. While the Pueblo has successfully utilized past JTPA funding, any attempt at developing radical changes to the regulations would cause failures rather than continued successes. The Pueblo does not want the Department of Labor to dictate who it can serve through JTPA, nor does it want the Department to dictate what services we can provide regardless of our local needs and circumstances. There seems to be a continued failure on the part of the Department to understand that rules and regulations mandated for the State-operated JTPA programs **do not** work on Indian reservations.

The Pueblo of Laguna, therefore, takes a very strong stand against any attempts, by

the U. S. Department of Labor, Division of Indian and Native American Programs (DINAP) to force Indian tribes to comply with proposed changes in the regulations.

The attempts to propose changes shows a complete lact of any regard for the principles of self-determinationas stated in PL 93-638 which helped to strengthen the government-to-government relationships that all tribes now enjoy. The Department of Labor seems to have difficulty in understanding that PL 93-638 helps to remind the Federal Government of its Trust responsibility to Indian tribes. Although the concepts and principles of PL 93-638 are applicable basically to the Bureau of Indian Affairs and Indian Health Services, most Indian tribes have moved forward in their dealings with other Federal agencies within the Federal Government. The concepts and principles of the Act, i.e., PL 93-638, are to give the basic optlcn to Indian tribes for local delivery systems; therefore, these concepts and principles should be applicable to all other Federal agencies, the U.S. Department of Labor included.

The Pueblo has difficulty in understanding why the USDOL / DINAP is hesitant in implementing the provisions of the 1992 Amendments to the Indian provisions of JTPA. The Department is totally ignoring Congressional intent in its failure to deal with only those provisions applicable to Section 401 programs. This total disregard is not acceptable by the Pueblo of Laguna. The Department is also failing to comply with the Amendments by refusing to establish a strong Indian office with real authority over Indian and Native American JTPA programs. The Indian office should be headed by an Indian or Native American who is knowledgeable in the day-to-day operations of programs and one who understands the very unique and different needs of Indian reservations. The Pueblo of Laguna insists that DINAP begin an effort to identify such a person to fill that position.

It is further recommended, by the Pueblo of Laguna, that the Department cease and desist in any further actions to draft changes and to comply with only those Amendments affecting Section 401 programs. Also, the Department needs to develop a more-acceptable method of consultation with grantees. Any consultation process should include tribal leaders and program managers and the purpose of consultation should include discussions of what, if any, changes would truly benefit Indian programs. In regards to the proposed draft regulations, the Department is trying to dictate to Indian programs what they feel is best for us. This is totally unacceptable!

It is also recommended that Congressional Committees / Subcommittees call for oversight hearings to review PL 93-638 in light of the many concerns voiced by Indian tribes and Indian organizations regarding the initial language of the 638 legislation.

The Pueblo of Laguna looks forward to the receipt of JTPA funds in its continued effort to reduce the high unemployment rate that still plagues our tribe. The Pueblo and its JTPA staff cannot afford to try to fight the system with one hand while at the same time, trying to carry out the responsibilities of JTPA program administration with the other hand.

A final recommendation would be to issue a mandate that non-policy making DINAP officials not be involved in attempting to make any type of changes, especially, something as important as the regulations that govern Indian JTPA programs. The task of developing or drafting changes should be left up to the policy makers and to the U.S. Congress.

The Pueblo of Laguna sees the attempts of certain Department of Labor careerists as an attempt to take away the dignity of Indian people, and they are showing a complete lack of sensitivity toward Indian people. Such attitudes foster distrust between the Department's Federal Representatives and JTPA Grantee staff.

The Pueblo of Laguna appreciates this opportunity to voice its concerns in regards to the proposed changes in the regulations, and the Pueblo would appreciate it if our recommendations will be taken into consideration.

Thank you.

RESPECTFULLY SUBMITTED BY:

Harry D. Early, Governor
PUEBLO OF LAGUNA

TESTIMONY OF [redacted], PRESIDENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

Good afternoon Mr. Chairmen and Committee members. On behalf of the National Congress of American Indians (NCAI), I would like to thank both the Labor and Human Resources Subcommittee on Employment and Productivity and the Senate Indian Affairs Committee for giving us this opportunity to present testimony about the future of our job training programs.

My name is gaiashkibos, President of the National Congress of American Indians and Chairman of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. NCAI is the oldest, largest national federation of tribal governments representing tribal governments and Indian and Alaska Native individuals. Established in 1944, and preparing to celebrate our 50th anniversary, NCAI is committed to the promotion and protection of Indian and Alaska Native rights. It is in this spirit that I testify today. I should add also that I have followed very closely the events that we are discussing from my position as a member of the Department of Labor (DOL) Indian Advisory Committee.

It is my understanding that the purposes of this oversight hearing include a review of the Department of Labor's implementation of Section 401 of the Job Training and Partnership Act (JTPA) Indian program and a review of the Department's proposed plans to publish new regulations, which will affect greatly the administration of the Indian JTPA programs.

Chairman Inouye and Chairman Simon, the Indian programs authorized under the Job Training Partnership Act are designed specifically to meet the unique and diverse needs of the many tribal governments and the JTPA law says this clearly in Section 401. This provision contains a separate statement of findings and a separate statement of purposes, both of which are exclusively Indian. The law says that our programs, "shall be administered in such a manner as to maximize the Federal

commitment to support growth and development as determined by representatives of the [Indian] communities and groups served by this section." The statutory language is illustrative of Congress's intent to make available to tribes programs designed to address more effectively the unique needs of Indian country. It is essential to the integrity of the programs that this design be regarded and preserved.

The Conference Committee Report which accompanied the final language of the 1992 amendments to JTPA stated:

> "These changes [to the Indian language in the JTPA law] are intended to insure that the special Native American programs directly address Native American needs and further the development of Native American communities in ways determined by Native American groups themselves."

From a tribal perspective, the special nature of the Indian JTPA programs is all-important. The law says that these resources are to be used by tribes to further tribal objectives in ways that meet the local tribal needs. Accordingly, we believe that all regulations for our programs must be based on this principle.

As special federal Indian programs, resources in JTPA should be administered in ways consistent with overall federal Indian policy. This policy includes acknowledgement of the trust relationship, tribal sovereignty and self-determination. When Congress wrote its statement of these principles into P.L. 93-638 two decades ago, it mandated a change in the way the federal government relates to tribes. Indeed, it should not go unmentioned that the genesis of this law was decades of ill-conceived, inconsistent governmental actions that have created some of the worst social and economic conditions in this country. It is imperative that the federal government, through the several agencies, fulfill its responsibilities and obligations to this country's first citizens. NCAI asserts that the

principles of tribal sovereignty and self-determination are applicable to all federal agencies. There is no special exception for the Department of Labor.

I mention all these issues because they are an integral part of today's discussion about the Indian JTPA programs and how our job training resources should be regulated.

Mr. Chairmen, in January of 1992, Department of Labor officials came before the Indian JTPA Advisory Committee and said that they had decided on a "redirection" for our programs. No tribal leader, no grantees had been consulted or had agreed to any such "redirection," Labor Department officials told us that they had drafted new regulations to impose their "redirection" on us. There was no opportunity for tribal governments or Indian organizations to be involved in the writing of these regulations. Labor repeatedly refused to release the actual text of these proposed regulations to the grantee community. Only after this hearing was scheduled did DOL staff make the text available, and then only during a "closed" meeting of the Advisory Committee's work group on regulations. The work group was given a 159-page document at the start of this "closed" meeting and was asked for comments without any opportunity to consult the affected tribal governments and the grantee community at large. Most of the DOL offices that control our funding had already approved the text of these regulations.

NCAI asserts that the whole process by which those proposed regulations were developed was a direct violation of the language of Section 401(h)(1) of the JTPA law. That language requires consultation on the drafting of program rules. Moreover, the Department's actions have undermined the intent of Congress when it passed P.L 638 two decades ago and are exactly what Congress

prohibited when it passed the Indian provisions of JTPA over ten years ago.

Mr. Chairmen, despite aforementionxd circumstances, I am hopeful that we are on our way to resolving these issues. I would like to comment concerning a September 7, 1993 meeting with the new Assistant Secretary of Labor for Employment and Training, Mr. Douglas Ross, regarding the Department's proposed regulations. At this meeting, we were given the opportunity to express our grave concerns and objections to a process of regulation development which precluded consultation with the grantees. I am very pleased to report that Assistant Secretary Ross acknowledged the problematic nature of this process and I would like to commend the Assistant Secretary for his commitment to tribal governments and the Indian and Native JTPA grantee community to work with us in a true partnership. The Assistant Secretary has agreed to withdraw from further consideration the entire package of draft regulations and to engage in the appropriate consultation with the Indian and Native American community generally and the Indian and Native American grantee community specifically. Certainly the special trust relationship that exists between tribal governments and the federal government requires strong government to government relations. I am optimistic that Assistant Secretary Ross, on behalf of the Administration, will be diligent in honoring this trust obligation. NCAI looks forward to participating in a partnership process that will not compromise the integrity of the Indian and Native American JTPA Programs.

In closing, I would like to articulate the National Congress of American Indians position adopted on these issues at our last Convention for the record. Our adopted resolution calls on the Secretary of Labor:

1. To meet with tribal leaders representative of each region of the country to discuss the

development, adoption and implementation of a Departmental policy statement which commits all units of DOL to recognize and promote Indian self-determination and the President's policy of supporting the government-to-government relationship.

2. To work collaboratively with tribal leaders to design program rules for Indian JTPA programs which recognize the unique conditions and guarantee respect for tribally-determined strategies for development and to protect the programmatic and fiscal integrity of the program.

3. To remove all regulatory and administrative barriers to the full integration of Indian JTPA resources with other sources of support for tribal human development programs and to enable all such resources to be used in a coordinated way to serve tribal goals.

4. To implement the provisions of the 1992 amendments to the Job Training Partnership Act which provide for establishing a strong, effective Departmental Indian office which will have primary responsibility for Indian employment and training funding and to implement the Indian preference in employment provisions of the amendments.

These principles are the key to enabling our job training programs to accomplish the objectives set forth in Section 401 of the JTPA law. Your support and assistance in making this happen is appreciated.

Again, thank you for the opportunity to appear before the two Committees and for your continuing efforts and support of Indian people. I would be happy to answer any question you may have.

STATEMENT OF ROBERT H. GIAGO
AMERICAN INDIAN TRAINING AND EMPLOYMENT PROGRAM
OKLAHOMA CITY, OKLAHOMA
ON BEHALF OF THE UNITED URBAN INDIAN COUNCIL, INC.
BEFORE THE COMMITTEE ON INDIAN AFFAIRS
AND THE SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY
U.S. SENATE
SEPTEMBER 15, 1993

Mr. Chairman, honorable members of the Committee, thank you very much for holding this important hearing today on Indian programs under the Jobs Training Partnership Act.

My name is Robert Giago. I am a member of the Oglala Sioux Tribe and I serve as the executive director of the American Indian Training and Employment Program in Oklahoma City. The program is governed by the United Urban Indian Council, Inc., a not-for-profit intertribal organization providing jobs through employment training, skills development and other related services to the 24,675 Native Americans residing in the Oklahoma City metropolitan area. The program is 100 percent Indian-governed and staffed and it was specifically established for the purpose of providing a multitude of services to those most in need within the Native American community.

Mr. Chairman, tribes across the nation appreciate your tireless support of tribal sovereignty and your commitment to tribal self-determination. As a result, much progress has been made in securing the federal government's commitment to these fundamental principles. But, this recognition has not yet proven government-wide because, until recently, the Labor Department has not respected these doctrines.

Although I am encouraged by Assistant Secretary Doug Ross' recent pledge to respect Indian JTPA programs by withdrawing a set of Labor Department draft regulations that would have grossly subverted tribal autonomy and self-determination, I think it's important that you and the committee members should know about the continual battles Indian grantees have been forced to fight just to preserve these vital services to their communities.

Labor Department bureaucrats launched a "redirection" campaign over its Indian JTPA programs 19 months ago that would have forced major restrictions on how tribal and off-reservation grantees provide employment and training services for our clients. These draft regulations would have forced Indian programs to conform to the same requirements written for non-Indian programs. Our objections to this package fell on deaf ears at the Labor Department. In fact, when we registered our vocal and vehement opposition to the draft regulations, we met with a stonewall, and even disdain, for our concerns.

Specifically, these revisions in JTPA rules would have dictated to tribal leaders and Indian organizations what Indian people they can serve, rewritten cost classification systems for all Indian JTPA expenditures that would have resulted in a mountain of red tape, and would have narrowly decided what particularly services could be provided - despite what the local or tribal needs might be. Program eligibility would have been restricted and grantees would have been forced to spend at least 50 percent of all their money on "direct training" costs.

Another proposal would have banned urban Indian grantees from providing any job placement services to their participants. Indians in urban areas, where more than half the total Indian population is located, would have been forced to go through state job service offices. This would have hurt Indian people who need this type of help the most. Many Indian people coming into my office need jobs immediately and can't wait for classroom training because they have families and mouths to feed. Indian people don't want to go to the state agencies because they're treated like cattle and we really care about getting our people jobs. Employers know us and the people trust us because we understand their needs.

These changes would have defied the basic principles of federal-Indian policy, as well as congressional intent of the Indian provisions contained in existing JTPA law which supports the principles of self-determination. Current JTPA amendments authorize a special, strengthened Indian office within the Labor Department to oversee Indian programs and provide an Indian preference policy for all professional positions within the Indian divisions. Only when a real Indian professional and staff with knowledge and experience is working with and for Indian people on- and off- the reservation, can true consultation take place for Indian programs. Another provision authorizes an advisory council representing Native American grantees to have a voice on all policy issues affecting them. It would also have a direct reporting link to Congress as well as providing advice to the Secretary of Labor.

The new Indian office is especially important because it will be responsible for developing the policies and procedures involved in administering Indian programs and for program monitoring. This unit should be a part of the organizational chart of Labor's Employment and Training Administration to reflect its important function and primary responsibility to Native Americans. The current Division of Indian and Native American Programs is under the Office of Special Targeted Programs, which is itself under the Office of Job Training Programs. It is these two offices that have been pushing so hard for the Indian "redirection" and have proven that they don't care.

I would like to see the Indian office have a direct reporting relationship to the assistant secretary for employment and training - an improvement that would benefit both tribes and the department as well as assist Mr. Ross with his promise to form "a new start" and a new partnership with Indian programs.

Paul Mayrand, who directs the Office of Special Targeted Programs, recently wrote that the Indian Self-Determination Act (P.L. 93-638) does not apply to Labor Department programs. He wrote, "The (Act) addresses financial assistance for tribes. While the Act's congressional declaration of policy sets forth a broad statement endorsing self-determination, it is only applicable to Department of Interior and the Department of Health and Human Services grants and contracts. No mention is made of the applicability of the Act's self-determination policy to DOL grants or contracts."

As you know, Mr. Chairman, the P.L. 638 says: *"The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities."*

Basically, Indian people know what is best for their own communities and should be allowed to decide what is best for themselves - as you and other members of this committee have often said and also enacted into law.

OKLAHOMA CITY AND THE URBAN PERSPECTIVE

The JTPA affords job opportunities and skills development for unemployed and unskilled Indians residing our jurisdictional area. Our participants are all enrolled tribal members representing many different tribes from reservations and rural communities.

The state of Oklahoma has the largest Indian population of any state (252,420) and the Oklahoma City metropolitan area alone has an Indian population of 45,720. My program serves Oklahoma County which encompasses Oklahoma City itself where the Indian population is 24,675. The city of Tulsa's native population is 48,196, including the entire metropolitan area.

Mr. Chairman, I'm sure you have heard this before but it bears more scrutiny - the truth is that the needs of Indians who live in urban areas are all too often ignored, overlooked or forgotten in federal law and policy. I'm proud to be a member of the Oglala Sioux Tribe. I grew up in Pine Ridge, South Dakota and I have the highest respect for tribal sovereignty. But through my work and experience, I have found that, all too often, programs serving Indians in urban areas do not receive the attention that programs located on reservations do - despite the fact more than half the total Indian population live in urban areas.

In the past, Indian people were forced by the government to move from their reservations or were dispossessed of their lands. Now, by necessity, many are forced to migrate to the "cities" to find work to support their families and for pure survival because jobs and educational opportunities are scarce or nonexistent on most

reservations. Unemployment and poverty are rampant on many reservations and, unfortunately, the picture doesn't improve much for Indian people in the cities.

The unemployment rate for Indian people in the Oklahoma City area has grown from 5.4 percent in 1980 to 13.6 percent in 1990. The poverty rate has also skyrocketed from 5.8 percent in 1980 to 24.3 percent in 1990. According to the last Census, Indian people lead the nation in poverty statistics.

Once Indian people arrive in the cities hoping for a better life, decent housing, or simply means to feed their families, they encounter additional barriers jeopardizing their employability. There is great ignorance by city and state employment programs about Indian people, even in a state with as large a population as Oklahoma's. City and state offices often assume that the BIA, the IHS, or tribes themselves will take care of Indians who relocate to the city. These offices have many times told Indians to seek help from their tribe or these federal agencies. Since they do not live in their tribe's jurisdictional boundaries, they are not eligible for services there and are then sent back to any urban or off-reservation organization for services.

Mr.Chairman, urban programs do not wish to take anything away from tribally-administered programs. We merely seek to ensure that tribal members who are forced to leave their homelands are not penalized for doing so and may access comparable services available to Indian people who do live on reservations. Indians are Indians wherever they may be and surely the trust protection extends to individuals since a tribe, as an entity, does not exist without its people.

As the American Indian Policy Review Commission noted in the 1970s, "No court, no general act of Congress, certainly no constitutional provision provides that the government's special responsibility to the Indian people stops at the reservation gate."

There must be a stronger recognition, both in policy and appropriations, for the needs of Indian people who do not live on reservations. When an individual Indian leaves the reservation, he or she is not forsaking the tribe nor his "Indianness."

Programs such as mine seek to help these tribal members looking for a job or training in in the city. I've been forced to turn away young people looking to earn money during their summer vacations and adults who need work to put food on the table and clothes for their kids because there is not enough funding to serve all those who need it. I started this program in 1974 because I know what it's like to be poor and to live in an area where there are no jobs and no opportunities. Shannon County on the Pine Ridge reservation, where I grew up, is the poorest county in the nation. In fact, three of the ten poorest counties in the nation are located on South Dakota Indian reservations. My point is that I understand both the reservation and off-reservation experiences. I went to college and earned a master's degree so that I might do something, in any way I could, to help other Indian people find a way out of poverty.

CONCLUSION

On behalf of the United Urban Indian Council, we appreciate the changes Congress has made in the JTPA law to assist Indian programs to tailor their employment and training programs to the specific needs of their communities. We respectfully ask that Congress closely monitor Labor Department progress in their stated new commitment to a cooperative relationship with Indian grantees, to ensure that federal law regarding Indian JTPA programs is carried out, and to safeguard the rights and interests of Indians who by necessity or circumstance, are forced to live off their reservations.

In closing, I want to thank the chairmen and committee members for their time, attention and concern for Indian employment and training programs. I am encouraged by your assistance in ensuring that programs are sensitive to tribal, local and community needs. I am also hopeful about the apparent turnaround in the Labor Department in light of assistant secretary Doug Ross' encouraging assurances. I hope that Congress holds him to it.

WESTERN WASHINGTON INDIAN EMPLOYMENT AND TRAINING PROGRAM

August 30, 1993

The Hon. Paul Simon, Chair.
Employment & Productivity Subcommittee
Committee on Labor and Human Resources
United States Senate
Washington, D. C. 20510

Attn: Mr. Ken Montoya, Rm SD 462

RE: **September 15, 1993 Hearing on Indian JTPA Programs**

Dear Sen. Simon:

The enclosed testimony is submitted on behalf of the twenty-two (22) Indian Tribes and two (2) Inter-Tribal Organizations that are the Board of Directors of the Western Washington Indian Employment and Training Program (WWIETP).

Indian Self-Determination is being made a "shambles" of by the "burrowed-in" Republican bureaucrats who "run" the U. S. Department of Labor. Their "boss", Mr. Robert Reich demonstrates, by his in-action, that he isn't at all concerned about the plight of Native Americans especially in relation to education and employment.

The Indian Community had such great expectations after the outcome of the last Presidential Election. However, now that we see our community's needs being all but ignored by the current administration (and its appointees) we implore you to listen to our voices and act immediately to curtail the disastrous "new" regulations as proposed for us by this "out of control" agency (US DOL).

As stated in our accompanying testimony: "Education and employment opportunities are "few and far between" in Indian Country. To take this program from us would suggest that DOL has a hidden agenda of cultural assimilation rather than cultural Self-Determination".

Sincerely,

Daniel R. Greco
Ex. Director, WWIETP

encs:

cc: Sen. Patty Murray
Rep. Jim McDermott
Rep. Jolene Unsoeld
Rep. Jennifer Dunne
Sen. Strom Thurmond
Sen. Slade Gorton
Rep. Mike Kriedler
Rep. Marie Cantwell
Sen. Edward Kennedy
Rep. Steve Gunderson
Rep. William Ford

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TESTIMONY AGAINST THE PROPOSED DOL JTPA "NEW" REGS FOR NATIVE AMERICAN PROGRAMS

Indian JTPA programs are essentially under the auspices of the Division of Indian and Native American Programs (DINAP) of the Department of Labor (DOL). Contrary to this structure, new regulations were developed and introduced by the Employment and Training Administration (ETA) of DOL, that drastically reduce the effectiveness and threatens, not enhances, the successful outcome of our training programs.

The Western Washington Indian Employment and Training Program, whose Board of Directors is made up of twenty-two (22) Indian Tribes and two (2) Inter-Tribal Organizations, is extremely distraught at the Department of Labor's (DOL) complete disregard of our community, its leaders, and the negotiation process we have so actively participated in on the issue of the new (and devastating) JTPA regulations.

We strongly protest (and will resist) the imposition on Native American JTPA grantees of any rule or regulation written by and for Native American programs which have been unilaterally authored by a group of adversarial DOL bureaucrats deaf to the outcry of opposition by the Indian community.

The Employment and Training Administration (ETA) of DOL is ready to impose untenable restrictions upon a segment of our community that has secured, and should continue to enjoy, special consideration in alleviating its inordinate problems in relation to education, training and employment.

Section 401(h)(1) of the Job Training Partnership Act mandates that all rules (proposed or otherwise) for our programs be only those which take into account the **"special circumstances"** of Indian and Native American Tribes, people and communities. The Congressional Committee Reports on the JTPA amendments of 1992 emphasize this requirement as the one to guide all DOL policy affecting Tribal governments and Indian and Native American organizations.

Any/all revisions to the current Indian and Native American Implementing Regulations of JTPA should not even be attempted without direct input and unanimous agreement from our affected community and its leaders. This concept is formally known as **"Indian Self-determination"** and is strengthened and reinforced, not only by the President, but by the Congress of these United State through numerous executive and legislative acts.

The DOL/ETA/DINAP is totally ignoring the concept of Indian Self-Determination (an Act, PL 96-638, as amended). They are telling Congress and the President of these United States that they are above the law; that they are exempt from the principles inherent to PL93-638; and, that they obviously condone the practice of overt racism in doggedly and maliciously shoving "mainline" programs (Title IIA, non-Indian JTPA programs) down the throats of our Native American communities: totally ignoring our cultural, philosophical and religious differences (not to mention our constitutionally-guaranteed treaty rights).

As expressed again and again, the Native American Community is unanimously opposed to DOL's unilateral and devastating "redirection" of our Title IV-A, JTPA program; so many negative ramifactions to our people are inherent to their inane proposals.

The "cruel and unusual consequence" of this "redirection", as promoted by Labor's bureaucrats, is to drastically reduce the number of Indian people our grantees can help while dictating to the Tribes and other grantees the types of services they must pay for out of their limited JTPA funds.

How fundamentally flawed is this DOL attack upon our community? Consider the facts that we have long suffered the highest drop-out rates; the highest unemployment rates; the lowest literacy rates; and, the highest suicide rates of any group in this country; all beginning with our

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defeat and ultimate enslavement. Now this agency (DOL), in order to expedite its own selfish, inappropriate and racist agenda, is about to add another "nail to the coffin" by purposely restricting the benefits of a program which was intended to "train, educate and employ" our people.

Would you like to hear an example of the ultimate irony of their insensitive and punitive logic? "Don't do any direct placements of Indian people into employment," they say. Don't find jobs for people! What kind of insane logic is that? How can such deplorable behavior from these bureaucrats be tolerated? What kind of labor force will the new millennium bring with them directing the manpower development futures of our nation? We are in desperate trouble.

There are many aspects of these "new" rules which will essentially devastate us. One of the worst deals with [1] "a change in the way costs must be classified. The change would force (Native American) grantees to split the time of front-line staff now handling a variety of participant needs into two different categories, instead of charging all such costs under the current training category. The end result will be a radical increase in paperwork and much time spent tracking time instead of assisting participants. Rather than insuring quality services as DOL claims, the change will mean that many Indian workers in need get no services at all. A major purpose of DOL's proposed change in the cost categories is to enable the Department to restrict the kinds of services grantees can provide -- regardless of individual participant needs or local circumstances in Indian communities." Additionally, administrative duties would increase while funds decreased and training funds would be reduced to dangerous levels.

[2] "Other unexpected features in the draft regs include provisions which would:

- Kill linkages between pre-employment training and OJT by applying limits to the duration of both activities which, in the law, apply only to OJT services.
- Reduce the maximum Community Service Employment (CSE)wages (now Max. $5.769/hr) in a number of areas despite the fact that it could soon be below minimum wage.
- Ban CSE altogether in cases where auditors or monitors might interpret its use as *subsidizing grantee administrative costs*."

[3] "The DOL draft regs would redefine the types of organizations that are eligible to apply for funding for both the Title IV-A and the Title II-B Indian programs." This would eliminate many grantees from access to either Title's funds: no JTPA programs to the people.

Our Title IV-A, JTPA program has, for the past twenty (20) years, provided to a service population of over 30,000 Indian people. Each year between 400 and 500 individuals successfully participate in a broad spectrum of education and employment opportunities; ranging from remedial education to post-graduate studies; from work experience to on-the-job training. Our program, with every facet of its design and direction provided by the Indian community, is desperately striving to alleviate its inordinate unemployment rate which averages approximately 53%.

These "regs" are the death knell to Native American, JTPA programs. They are intended by DOL/ETA to do just that. Their purpose is not to aid Indians (America) in their education and employment crisis, but to ease the already light burden of duties and responsibilities of those "burrowed-in" bureaucrats who have nothing better to do but to chip away and negate what is

FOOTNOTES #1, 2 and 3, have been directly excerpted from the August 6, 1993, issue of the Friday Report of the Indian and Native American Employment and Training Coalition.

now a productive and workable program. They covet and selfishly guard their "civil service" status and all its "perqs" while we, the taxpayers who pay these bloated and wasteful costs, get nothing in return but disciplinary sanctions and punitive regulations. Is this not contrary to the goals (needs) of our society?

We implore you to urge the Secretary of Labor to adopt the position of the Native American population that was enunciated to DOL over and over again in public hearings and subsequent "volumes" of written testimony: the Title IVA and IIB, JTPA, Indian and Native American programs are distinct from those of the SDA's. Ours were specifically enacted by Congress to address the "special" needs of our people by advancing Indian Self-Determination. Do not allow DOL's misconceptions and subsequent intransigence to erode a program that we have fought so hard to maintain.

Concurrently, the Secretary of Labor must implement those requirements in the JTPA amendments which specifically apply to Native American programs, including the requirement to place all policy-making functions related to our programs in an **Indian office** and to implement **Indian preference** in all personnel actions involving professional positions in said office.

It should be pointed out that the new JTPA amendments passed last year by the Congress do not require an overhaul of the regulations for the Section 401 Indian programs. We anticipate this Congress's full support of Indian Self-Determination and your subsequent admonishment of the Department of Labor's "gestapo" tactics against our people.

In summary, never has a federal agency demonstrated such apathy and arrogance of a community, its leaders and its emergent needs. Does the Clinton administration and its cabinet know of the oppression and negativism permeating the attitudes of those "burrowed-in" bureaucrats who do nothing but stifle growth and development? Robert Reich does and, to date, chooses to ignore it at the expense of our nation and our future.

Education and employment opportunities are "few and far between" in Indian Country. To take this program from us would suggest that DOL has a hidden agenda of cultural assimilation rather than cultural self-determination.

WWIETP Executive Director: _____ Date: 8/30/93

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WRITTEN TESTIMONY

SUBMITTED TO

THE HONORABLE DANIEL INOUYE, CHAIRMAN
SELECT COMMITTEE ON INDIAN AFFAIRS

THE HONORABLE PAUL SIMON, CHAIRMAN
EMPLOYMENT SUBCOMMITTEE
LABOR AND HUMAN RESOURCE COMMITTEE

BY

DR. R. MCDONALD-JACOBS, CHAIR
NATIVE AMERICAN EMPLOYMENT AND TRAINING COUNCIL

Kateries Research And Management Services
POLICY DEVELOPMENT · RESEARCH · PLANNING · EVALUATION

The Honorable Daniel Inouye,
Chairman Select Committee on Indian Affairs

The Honorable Paul Simon, Chairman
Employment Subcommittee
Labor & Human Resources Committee

September 10, 1993

Dear Senators:

I am Dr. Rose-Alma McDonald-Jacobs. I am a Mohawk from the St. Regis Mohawk Tribe in upstate New York. I am writing this to you in my capacity as chairperson of the Native American Employment and Training Advisory Council and also as a Native person who has committed my life to issues such as those addressed by our grantee community.

I have served aboriginal peoples all of my professional career. I have over twenty years experience working with tribes and First Nations both in the United States and Canada. I have worked on issues that have impacted over 667 First Nations (tribes) across Canada in the area of education, training, languages and culture. I now advocate on behalf of 182 Indian and Native American grantees as Chair of the Advisory Council.

I am not a grantee myself. I am a member of the advisory council in the "other discipline" category. We do, however, have a JTPA Program at the St. Regis Mohawk Tribe where I live. My involvement in the JTPA Native American programs Advisory Council, however, is by no means coincidental. For several years prior to coming on to the council I worked for the Department of Labor's Canadian counterpart, the Canada Employment and Immigration Commission. I worked as an Outreach Worker in my reservation community coordinating a project designed to extend employment services to residents of the Akwesasne Mohawk Territory whose special needs were not being met through standard employment procedures available off the reserve.

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Later in my career I worked as a Native Employment Specialist where I was responsible for counseling clients primarily of native ancestry concerning employment programs, services and facilities – these clients also included employers, those seeking employment in their normal vocation, new entrants to the labor force, the handicapped, youth and older workers, and those who, out of necessity, made occupational changes or who were occupationally maladjusted.

I have lived and breathed employment and training for many years. I have seen the effects and devastation that has resulted from the lack of jobs and lack of training in our reservation communities not only from a national perspective but from an international perspective. Recent statistics indicate reservations are still the most impoverished communities in the United States. Our drop out rates, suicide rates, unemployment rates and mortality rates are still the highest in the country over any other given ethnic group. One only has to visit any reservation to see. On most reservations the average annual income is way below poverty level. Most reservation residents don't have the luxury of a roof over their head, or running water, or electricity, or in many places, even roads to get from one place to another. This is the reality of our people.

Most people say "how can that be in this America?" One only need look at how the Native American has been treated in America. Just recently an opinion was provided by the Department of Labor concerning Public Law 93–638, the Indian Self–Determination Act, with regard to the Department's development of regulations for Section 401 of the Job Training Partnership Act. That opinion stated that most recent Supreme court decisions support the Department's position that the policy of Indian self–determination is limited in nature and congressionally regulated. The Department stated "*from reviewing the cases, one can conclude that the Government should view Indian tribes as domestic dependent nations which are delegated their authority through Congress and should not be treated as foreign independent nations.*" Given that view of tribes it is not surprising that the kinds of conditions described above still exist on reservations today. Until tribes can truly determine their own destiny and exercise true self determination their futures will continue to remain bleak.

Since I was elected as Chairperson of the JTPA Indian and Native American Programs Advisory Committee (now Council), we have faced several major issues which have had potential detrimental effects on the program. The most detrimental was the "redirection" effort initiated by the Department of Labor to "improve the quality" of the program. This initiative was unilaterally imposed with no consultation or input from anyone on the grantee or advisory committee side of the issue. One of the most contentious issues at that time was the move on the Department's side to cut all programs that were $200,000.00 or less. Of 182 grant programs half were in this category. This would have forced combining programs that in most cases were not logical consolidations because of geography, distance or lack of commonality among program formats. Many programs vary from one another by tribal affiliation, area – reservation or off–reservation, etc. This threat to the grantee community was devastating. Unprecedented public comment periods were held for major portions of Advisory Committee meetings in an effort to sensitize Labor to the concerns of the grantee community. This was to no avail. The "redirection"

efforts later accelerated with the passing of the 1992 JTPA amendments. The Department saw this opportunity to impose their "quality effort" through the regulations process. A team was struck up within the Department and the writing process began, again with no input from the grantee community or Advisory Committee. Frustrations ran even higher in the Indian and Native American community.

The Advisory Committee, the grantee community, tribes and other organizations continue to fight long and hard to change the paternalistic attitudes of the Department. It is our belief that there is no reason why the Department and representatives of the grantee community can not sit down together as partners to discuss the regulations process. It is further our contention that "the process" is all wrong. There has been no real consultation. There have been no indications that there has been anything wrong with the program that appears to require fixing. Most importantly, the changes proposed by the Department are above and beyond those mandated by the Congress and by all indications are beyond the original intent of the Congress.

Further, it appears obvious that it is the intent of the Department to "mainline" the 401 program. From analysis of the proposed regulations it is apparent most of the proposed changes to the 401 regulations are consistent with those for the Title II program. Clearly, if this had been intended by the Congress, it would have been specified as such.

In 1982 the Congress in Public Law 97-300 stated as follows: Section 401 (a) "The Congress finds that (1) serious unemployment and economic disadvantages exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantages among individual members of those communities and to the advancement of economic and social development in the communities consistent with their goals and lifestyles." Further, (h)(1) *"The Secretary shall, after consultation with representatives of Indians and other Native Americans, prescribe such rules, regulations and performance standards relating to Native American programs under this section as may be required to meet the special circumstances under which such programs operate."*

The Native American Employment and Training Council, which was chartered and came into effect July 1, 1993, is mandated to provide advice regarding the overall operation and administration of Native American programs authorized under Title IV, Section 401 of the Job Training Partnership Act, as well as, the implementation of other programs providing services to Native American youth and adults under this act. The Council consists of 17 Indians, Alaska Native and Hawaiian Natives appointed by the Secretary from among individuals nominated by tribes, Indian, Alaskan Native, and Hawaiian Native organizations. The membership of the Council represents all geographic areas of the United States and includes representatives of tribal governments and of non-reservation Native American organizations who are service providers under the act. The majority of the members of the Council operate programs authorized under this section on a daily basis.

It is our contention that in the spirit of the law that the Department of Labor at a minimum agree to the following:

1. To work with and consult with the Native American Employment and Training Council to:

   A. solicit views on issues affecting the operation and administration of programs under Section 401,

   B. seek advice and recommendations on the design and implementation of performance standards,

   C. evaluate the effectiveness of job training programs and seek recommendations with respect to the improvement of such programs,

   D. seek advice with respect to individuals to be considered to fill the position in charge of the Native American unit designated and authorized by the Act,

   E. seek recommendations with respect to services obtained or to be obtained by the Department with non-Federal agencies or entities that involve programs authorized under Section 401.

2. Establish a working relationship with the Advisory Council that is consistent with the new administration and the concept of "reinventing government." Let us be partners and work toward the common goal of serving the Indian and Native American community.

3. Let us work together as a team to develop regulations that specifically deal with those aspects of the JTPA amendments that are sensitive to the needs of Indian programs. Drop the current draft proposed regulations and start fresh.

4. Let us respect one another as equals with an honest and open working relationship and have expectations of one another that communicate mutual responsibility and accountability.

5. Let us share with one another and learn from one another the richness and joys of our cultures. The Native American culture and our people are our most precious resource, let us build on that resource and share our knowledge so that we may work together in harmony. This can be done by training within the Department on a regular basis by Indian and Native American experts.

6. Develop a single organizational unit with a primary responsibility for the administration of Indian programs that is consistent with the needs and aspirations of the Indian and Native American community, as mandated in the 1992 JTPA amendments.

7. Seek a Solicitor opinion on the principle of self-determination as it relates to DOL's relationship with Indian and Native American grantees.

8. Consistent with the pending Memorandum of Agreement with the Department of Interior and the notion of self-determination sign the MOU that will facilitate implementation of Public Law 102-477.

9. Seek advice from the Advisory Council in the staffing of upcoming leadership positions in the Division of Indian and American Programs to ensure qualified Indian and Native American peoples are considered for these and other such positions. This refers to one position that is upcoming very shortly.

I regret that I will not be available to present my testimony at the hearing scheduled in Washington, D.C. for September 15, 1993 and request that this letter be placed in the record as part of the testimony provided at the Senate Hearing on DOL Draft Indian JTPA Regulations on this date.

Dr. Rose-Alma McDonald-Jacobs
Chair, Native American Employment and Training Advisory Council

CANDELARIA
American Indian Council

September 8, 1993

The Honorable Paul Simon
Chair, Employment & Productivity Subcommittee
Committee on Labor and Human Resources
United States Senate
Attn: Ken Montoya, Room SD 462
Washington, DC 20510

Subject: Indian Community Testimony for Congressional Hearings on Indian JTPA

Dear Senator Simon,

As a grantee providing employment and training services through the Indian provisions of the Job Training Partnership Act, we would like to submit the following as testimony for the consideration of the Senate Labor and Indian Affairs Committees in conjunction with the hearing on Indian JTPA issues scheduled for September 15, 1993.

The Indian and Native American provisions in Title IV of JTPA provide critically important services to over 30,000 Indian and Native American youth and adults every year. Last year Congress passed into law amendments to JTPA which we in the grantee community vigorously supported. Unfortunately, the Labor Department has ignored the new provisions which were intended to improve and strengthen services to Indians and Native Americans. Instead, the Department has proposed new regulations that would destroy the ability of community based organizations such as ours to deliver services responsive to our communities' needs.

We would like to focus on just four of the countless problems as contained in the proposed new regulations. We conclude with a short summary of recommendations.

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1) The process of writing the regulations has not included any consultation with the Indian and Native American community. This is in direct defiance of the 1992 JTPA Amendments, as mandated in Section 401(h)(1):

> "The Secretary shall, after consultation with representatives of Indians and other Native Americans, prescribe such rules, regulations, and performance standards . . . as may be required to meet the special circumstances under which such programs operate."

The Labor Department's blatant failure to consult with the community to be served has resulted in the drafting of regulations not at all cognizant of the special circumstances under which our programs operate. The Indian provisions of JTPA state unequivocally that the Act's intent is to implement and facilitate programs in service of "the advancement of economic and social development in the communities consistent with their goals and lifestyles" (Section 401[a][3]). The proposed new regulations are not based on the mandated consultation. A review of the substance of the proposed regulations indicates that it is the Labor Department's intent to do away with, and not implement, the special provisions of the Indian program.

Rather than cite each and every objection to the proposed regulations we would simply point out that the grantee community has collectively reviewed the draft regulations and provided the Assistant Secretary of Labor (and your subcommittee in separate correspondence) over two hundred pages of line by line critique of the regulations. Our critique also includes recommended solutions and options which have been wholly ignored by Labor Department officials. In fact, it was only after repeated protests by the Indian community, requesting an open dialogue about the regulations, that the Labor Department even admitted that it was drafting new regulations on matters far beyond the scope of the 1992 amendments. The fact is that DOL still has not allowed an open forum for the Indian community to address the proposed regulations. Again, it is clearly mandated in the 1992 amendments that Labor must consult with the Indian community.

2) The new draft regulations are drawn up specifically to bring the Indian programs into alignment with non-Indian programs, and *not* to implement new provisions as written in the 1992 amendments. One needs to read no further than the proposed regulation's Scope and Purpose clause (§ 632.2) to find that the new regs *nearly* cite the 1992 amendments directly, but actually change key words with the result being that the regulations de-emphasize the clear intent of Section 401 to allow Indian

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communities to operate programs in a manner consistent with community-determined needs. The law, in contrast to the proposed regulations, states that

> "[Indian and Native American] programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development *as determined by representatives of the communities and groups served by this section.*"
>
> Section 401(b)(3), emphasis added.

When Congress enacted the 1992 amendments it was understood that there would need to be a handful of regulation changes, certainly for Title II, as mandated by the amendments, as well as for Title IV for the areas directly affected by the same amendments. The Labor Department, however, has brazenly refused to implement changes as recorded in the amendments, and has gone so far as to propose the elimination of program regulations pertaining to the Department's responsibilities as outlined in the original law and 1992 amendments.

One such example, in addition to the aforementioned issue pertaining to consultation, is the amendment's mandate that "The Secretary shall designate a single organizational unit that shall have as its primary responsibility the administration of all Native American programs authorized under this Act" (Section 401[j][1]). While this provision of the amendments has been ignored, the Labor Department's proposed regulations actually call for the elimination of § 632.88 (from the current regulations), which is the section of the regulations which specifically identifies Labor's responsibility to implement the law as found in paragraphs (e), (h)(1), (i), and (j) of Section 401.

Further, Labor officials acknowledge outright that by drafting these new regulations they would further their goal of modeling the Indian program after the regulations drafted for JTPA's Title II-A (note the Supplementary Information section at the beginning of the proposed regulations). Again, this is in direct defiance of Congress' stated intent in Section 401 that Indian and Native American programs be regulated by special circumstances and needs.

Ironically, the draft regulation's Supplementary Information section notes that this re-alignment of the Indian program with non-Indian programs is for the improvement of program quality. However, nowhere in the draft regulations does Labor state the truth that by its own measures of performance the Indian and Native American programs have proven vastly more cost effective than the non-Indian programs. The draft regulations also fail to acknowledge that the Labor Department has never conducted a comprehensive

review of the Indian program. The Labor Department has no documentation whatsoever to support its contention that the re-alignment of the Indian program with non-Indian programs is truly for the program's "improvement."

It is clear by Labor's failure to acknowledge its lack of data to support the proposed changes, their failure to recognize the success of the Indian programs while operating under provisions allowing for local control of programs consistent with local communities' needs (and consistent with the Law), that their only concern is easing the "burden" of Labor staff in their work to monitor and compare programs. The Labor Department's insistence that it not consult with the Indian community in drafting new regulations lays bare the fact that Labor is not concerned with the quality of services in its drafting of new regulations.

3) The proposed new regulations may well result in a system that calls for DOL to dictate to Indian and Native American grantees who it can serve and what services grantees can provide. New proposed restrictions on services, not required by the amendments, would potentially take key decision-making authority and autonomy away from grantees. Such a loss of local control would in fact be to the detriment of our clients.

For example, vague direction, as included in the draft regulations regarding the coordination of services to the extent "practicable" with other institutions (§632.121[d]) could actually have a chilling effect on a grantee's ability to coordinate services with other programs. The proposed regulations are so concerned with some presumed but never demonstrated duplication of effort that it appears that any attempt to work with other training institutions will sadly be discouraged. Ironically, grantees will be forced under the new regulations to work in isolation simply to avoid the confusion and contradictions within the regulations. The result would again be a loss of cost-effectiveness and a loss of services to the communities most in need.

Perhaps most tragically, the proposed regulations would eliminate from eligibility some ten to fifteen percent of the grantees currently providing services because they would be considered by Labor to be too small to provide cost-effective services (see draft regulations § 632.10). Nowhere does Labor provide evidence to support the practicality of eliminating these programs. And again, the draft regulations fly directly against the clear intent of the law:

"In carrying out responsibilities under this section, the Secretary shall,

> wherever possible, utilize Indian tribes, bands, or groups . . . for the provision of employment and training services under this section."
>
> Section 401(c)(1)(A).

There are no provisions in the law granting the Labor Department the latitude to exclude Tribal governments and other locally controlled Indian groups based on size alone. The loss of these programs would severely damage the communities currently served by their own local tribal governments and community based organizations.

4) One last item that we believe requires our comment here is the proposal in the draft regulations to re-write the cost classification system as set by the existing regulations (see § 632.37 of the proposed regulations). Grantees have spent years developing the system currently in place and have invested heavily in designing accounting and client tracking systems in compliance with the regulations. Labor's only stated reason to support the change is to bring the Indian and Native American programs into the same system as the non-Indian programs. Again, we ask what relevance this has when Congress has specifically mandated a separate program for Native Americans, and grantees have taken the program and provided superior services to the non-Indian programs. In proposing the change the Labor Department cites no evidence that the modification would be beneficial to program services or program administration.

The result of implementing the change would be a severe and unnecessary disruption of grantee operations and a dramatic increase under the new system for most grantees in administrative responsibilities (again, to the detriment of the focus on service delivery). The specific proposed requirements and definitions for tracking separately "direct training services" versus "training-related and supportive services" would result in program staff spending an enormous amount of time tracking their activities—often on a minute by minute basis—and therefore not actually providing service. The push ought to be for the elimination of unnecessary administrative burdens, not for their increase in an area where accountability and quality program services are apparently not even a concern.

Recommendations: It is imperative that the Labor Department withdraw the proposed new regulations and begin immediately a consultation process with the Indian and Native American grantee community for the development of new regulations which will implement the Indian provisions of JTPA.

It is also imperative that the Labor Department begin immediately a dialogue with the Indian and Native American community that will result in a meaningful evaluation of the services of the Indian and Native American program. Such an open dialogue and program review will allow the development of proposals for the actual improvement of Indian and Native American programs.

Finally, we request that the Labor Department comply with the JTPA Amendments mandating the establishment of a strong Indian office within the Labor Department. This office must operate under Indian leadership, selected through an open and competitive process with community input, and report directly to the Assistant Secretary.

Thank you for your attention to these pressing and critical issues. Thank you also for your continuing support for Indian and Native American JTPA programs.

Sincerely,

Sal Perez
Chairman of the Board

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Representative Elton Gallegly
Representative Michael Huffington
Representative Sam Farr

TESTIMONY OF JAMES SAPPIER, EXECUTIVE DIRECTOR OF UNITED SOUTH AND EASTERN TRIBES (USET) ON THE DEPARTMENT OF LABOR'S PROPOSED REGULATIONS FOR INDIAN JTPA GRANTEE PROGRAMS

SUBMITTED TO THE SENATE LABOR SUBCOMMITTEE ON EMPLOYMENT & PRODUCTIVITY AND THE SENATE INDIAN AFFAIRS COMMITTEE

SEPTEMBER 15, 1993

Thank you Chairman Inouye and Chairman Simon for the opportunity to testify on the Department of Labor's (DOL) proposed regulations concerning Indian JTPA grantees. This has been a priority issue for USET and Indian grantees across the nation for the past couple of years. As you are well aware, under the past Administration, a thick set of regulations was proposed for Indian grantees; the intent of these proposed regulations was to bring Indian JTPA programs into closer conformity with non-Indian programs. Indian grantees were not consulted prior to the drafting of these regulations, and none of their concerns were addressed by DOL staff. The beneficiaries of the proposed regulations would have been the bureaucrats administering the program - not the Indian people for whom the programs are intended to serve. Indian grantees across the nation strongly opposed the proposed regs, but they were continually ignored by the officials and staff of the Department's Office of Special Targeted Program (which had oversight of the issue).

USET passed a resolution last February stating our opposition to DOL's proposed regulations, and requesting the withdrawal of those regulations (USET resolution #93-14DC). This resolution, along with an accompanying letter from USET, was sent to Labor Secretary Robert Reich on March 11, 1993. I am happy to say that the newly appointed Assistant Secretary for Employment and Training, Doug Ross, has agreed to withdraw the proposed regs. He met with a number of Indian JTPA grantees, including USET President Eddie Tullis, on September 7th, and heard our concerns. He then assured us that he is interested in establishing a better relationship between DOL and Indian grantees, and agreed to withdraw the regulations in question.

We are gratified to see that Assistant Secretary Ross is genuinely interested in learning about what makes Indian JTPA programs different from those programs operated by and for non-Indians. It is our belief that after he is educated in the regard, he will better understand why Congress has mandated that Indian programs be accorded more flexibility in program administration. In any case, we welcome his efforts to establish communication and a reciprocal relationship between the Department and Indian grantees. This is a most welcome change from the adverse positions that we had become accustomed to from DOL. One of USET's member tribes, the Eastern Band of Cherokee, has extended an invitation to the new Assistant Secretary to visit their reservation and

their JTPA program. I am sure that invitations have been made, or will be in the future, by other Indian grantees as well, and I strongly urge that he visit several programs in the field.

It is also our understanding that Assistant Secretary Ross has recognized the importance of having an Indian person be in charge of the "Indian desk" which is to be established within the Department subsequent to P.L. #102-367. It is our hope that this new unit, which would oversee all of the Department's Indian programs, will be located in such a place within the organizational structure so that it will have direct access to the Assistant Secretaries, if not the Secretary himself. This will greatly facilitate the interests and needs of Indian people.

Mr. Chairmen, we were prepared to submit testimony which outlined the concerns we have had in regards to the Department of Labor's actions over the past couple of years. However, in light of Assistant Secretary Ross's agreement to withdraw the regulations, and his intent to foster a new relationship between the Department and Indian grantees, we feel that it is no longer necessary to address those issues in this forum. I am attaching however, for your information, a copy of the above-referenced USET resolution on this subject.

Again, we appreciate the opportunity to testify on this issue, and we are very much looking forward to working with Assistant Secretary Ross in addressing the employment and training needs of Indian people. Thank you very much.

UNITED SOUTH AND EASTERN TRIBES, INC.

RESOLUTION NO 93-14DC

1992 AMENDMENTS TO THE JOB TRAINING AND PARTNERSHIP ACT

WHEREAS, the United South and Eastern Tribes, Incorporated (USET) is an inter-tribal organization comprised of twenty (20) federally recognized tribes; and

WHEREAS, the actions taken by the USET, Inc. Board of Directors officially represent the intentions of each member tribe, as the Board of Directors is comprised of delegates from the member tribes leadership; and

WHEREAS, USET has established an education committee comprised of representatives from their member tribes to provide an important delivery mechanism to promote and support education in Indian country; and

WHEREAS, the principal resources available to tribal governments and Indian organizations to provide employment and training services for Indian people are authorized by the Indian programs under the Job Training and Partnership Act (JTPA); and

WHEREAS, approximately thirty thousand (30,000) Indian and Native Alaskan workers in the United States are currently served by the Indian JTPA Title IV-A program; and

WHEREAS, the JTPA Title II-B Summer Youth Employment and Training program serves an additional ten thousand (10,000) Indian reservation and Native Alaskan youth; and

WHEREAS, due to their receiving Indian JTPA IV-A funds, grantees have been able to obtain additional employment and training resources through other federal, state and local governmental programs; and

WHEREAS, it is essential that the Indian JTPA Title IV-A programs retain flexibility in order to meet effectively the appropriate needs of Native Americans in Indian country; and

WHEREAS, Indian JTPA Title IV-A programs must remain flexible if they are to function in a manner consistent with the principles of tribal sovereignty and self-determinations as they have been set forth by the President of the United States and the United States Congress for the last two decades; and

WHEREAS, included in the 1992 amendments to JTPA, the Congress:

(a) acknowledged the unique government to government relationship with Native American governments
(b) confirmed the continued rights of tribal governments to mold their JTPA programs to suit their own needs
(c) mandated the Department of Labor (DOL) to establish a strong Indian office to work with Native American

grantees, as they administer JTPA programs
(d) mandated employment for Indian people and that office be given special consideration
(e) created a permanent Native American JTPA Programs Advisory Council which reports to the Secretary of Labor and Congress; and

WHEREAS, the DOL announced by notice in the September 10, 1992 Federal Register that is intends to eradicate the Indian JTPA programs flexibility by arbitrarily imposing restrictions on participant eligibility requirements and program services, which restriction were written specifically for non-Indian programs and which were not ever intended by Congress to be applied to Indian programs; and

WHEREAS, no action has been taken by DOL to establish and effective and meaningful Indian office to administer JTPA programs or to provide special consideration for the employment of Indian people in that office despite the mandate in the 1992 amendments to JTPA.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of USET hereby calls on the Secretary of Labor to suspend all proposed changes to JTPA regulations except those specifically mandated by Title IV-A of the 1992 Job Training Reform Amendments until consultations have resulted in an effective equally based dialogue with end results that will meet the needs of Indian communities and the participants they serve; and

BE IT FURTHER RESOLVED, that the Board of Directors of USET call on the President to direct DOL to adhere to the provision of the Indian Self-Determination Act; and

BE IT FURTHER RESOLVED, that the Board of Directors of USET call on all Committees of Congress with appropriate jurisdiction, along with all members of both houses, to intervene with the Secretary of Labor toward these ends.

CERTIFICATION

This resolution was duly approved at the Board of Directors meeting, at which a quorum was present, in Washington, DC, on February 25, 1993.

Eddie L. Tullis
Eddie L. Tullis, President
United South and Eastern Tribes, Inc.

Keller George
Keller George, Secretary
United South and Eastern Tribes, Inc.

73-554 O - 94 - 5

THE EASTERN BAND OF CHEROKEE INDIANS

Qualla Boundary - P.O. Box 455, Cherokee, N.C. 28719
Telephone: (704) 497-2771 497-4771

JONATHAN L. TAYLOR, Principal Chief
GERARD PARKER, Vice-Chief
ARNOLD WACHACHA, Executive Advisor

TESTIMONY OF THE EASTERN BAND OF CHEROKEE INDIANS

OF CHEROKEE, NORTH CAROLINA

ON THE PROPOSED REGULATIONS

FOR THE JOB TRAINING PARTNERSHIP ACT, TITLE IV PROGRAM

PRESENTED TO SENATOR SIMON AND SENATOR INOUYE

AND

SENATE INDIAN AFFAIRS AND LABOR COMMITTEE MEMBERS

SEPTEMBER 15, 1993

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TESTIMONY OF JONATHAN L. TAYLOR, PRINCIPAL CHIEF

Honorable Senator Simon and Senator Inouye, and Distinguished Members of the Senate Indian Affairs and Labor Committees, I am Jonathan L. Taylor, Principal Chief of the Eastern Band of Cherokee Indians. I wish to thank you for the opportunity of submitting my testimony before you today. As you know, our reservation is located in the western part of the state directly adjacent to the Great Smoky Mountain National Park. We have a population of 10,320 which includes 6,887 enrolled members living on the Qualla Boundary.

One of the most important and continuous issues that we bring to the attention of the Senate Indian Affairs and Labor Committees is the opposition to the proposed regulations for the Job Training Partnership Act, Title IV Programs. We are aware that, Mr. Doug Ross, Assistant Secretary for Employment and Training, met with the representatives of the Indian JTPA grantees on September 7, 1993, and has agreed to withdraw the proposed regulations regarding Indian JTPA programs. we strongly support such a withdrawal and we greatly appreciate the concern Mr. Ross has shown on this issue. The following testimony was drafted prior to our being notified of this agreement and, as such, illustrates the concerns which we have been having with the Labor Department. It is our hope that Mr. Ross's recent statements will make this issue moot, and that a positive new relationship can be built between Indian JTPA grantees and the Department. To this end, we have sent Mr. Ross a letter thanking him for his

efforts and extending an invitation for him to visit our reservation and observe our Tribe's highly successful employment and training program. In any case, we are submitting, for the record, the following concerns we have had on this issue.

Our Tribe strongly objects to the imposition on Native American JTPA grantees of any rules or regulations written for Non-Native American Programs. We feel we have successfully operated our programs for years now and just when it seems that we are at a point of being able to advance our programs to an exemplary level, we are faced with proposed regulations that restrict the entire program.

Any revisions to the current Indian and Native American JTPA regulations should be developed only on the basis of what needs to be done to strengthen our programs and on the basis of what is consistent with federal Indian policy, including the principle of Indian self-determination as repeatedly expressed by the Congress and by President Bush and President Clinton.

Any drastic changes in the current JTPA program, would have devastating effects on our Indian community. One of the major problems we face is an extensive high rate of unemployment during the winter months. Last year we had over ten million tourist visit our reservation. Over 75% of our industry is tourism, therefore the unemployment rate is extremely high in the winter months. This

is an example of one of the barriers our Tribal members must deal with as opposed to the barriers the Department of Labor has proposed. In order to qualify for the JTPA Program, under the proposed regulations, participants would have to be a school dropout, offender, disabled or a welfare recipient. This regulation would force us to deny our own Tribal members services which are legally available to the Indian programs.

Over the past ten years the JTPA program has enhanced the lives of our Tribal Members through advancements in education, job placement and increased standard of living. Therefore, to say that we could only serve offenders and dropouts would be an insult to our Tribal Members. Many of them have completed their high school education, obtained their GED, completed college and even obtained Masters Degrees through the assistance of the JTPA program. Others have gained valued job experience and are now working in skilled professions. We feel that through the years of operation, our Tribal Members have advanced to a level that would require education, work experience and job opportunities.

An example of this is, Mr. John Doe was an alcoholic and relying heavily on welfare benefits to feed his family. He was receiving unemployment benefits from the State, AFDC for his children, HUD for his housing needs and Food Stamps. All of these benefits totaled approximately $1200.00 per month, for a yearly total of $14,400.00 of taxpayer's dollars. Through efforts of the JTPA

program, Mr. Doe made a decision to quit drinking and enrolled in the Drug and Alcohol Program at the local community college. While in school, he was employed on a part-time basis at the Cherokee Indian Hospital, Chemical Dependency Unit. Mr. Doe has now graduated with an AA Degree in Drug and Alcohol Technology and through the JTPA, On-The-Job-Training Program, he has received full time employment with a tribally operated program serving enrolled members facing mental and physical barriers and he will be paid $14,500.00 per year. He has turned his life around and has become financially self-supporting. Mr. Doe's full-time employment, will allow him to contribute tax dollars. With the combined efforts of Education and On-The-Job Training programs, Mr. Doe reached his educational and personal goals. This wouldn't have been possible without the combination of both Education and Work Experience opportunities. Mr. Doe is now enrolled in a local university and is seeking an BS degree in Social Work.

Our Tribe serves disadvantaged youth and adults who rely heavily on the JTPA program for job placement and educational training in order to overcome numerous cultural, economical and social barriers and be able to compete for employment opportunities. This year our JTPA program had a 95% On-The-Job Training Placement rate and a 97% Work Experience placement rate. Through the JTPA Office, we have established a working relationship among public and private sector employers on and off the reservation, which has provided numerous job opportunities for Tribal members. Through the years, we have provided job services for the residents on the Qualla Boundary without having

to force our residents to seek employment with job development services located twenty-five miles away. All our job opportunities are advertised and hired locally through our own Tribal Government.

The Labor Department staff wrote a set of proposed regulations for the Indian Title IV JTPA programs. During meetings with the Department of Labor, DOL officials continued to turn a deaf ear to the grantee demands that the Indian programs should be treated as special programs dedicated to exclusive Indian needs and circumstances. We feel that they are asking us to comply with changes that need to be implemented in the Title II Programs. It appears that the Title II programs should implement some of the programs that the Title IV program does in order to provide effective and efficient employment opportunities the Tribes have established.

If these regulations are implemented our JTPA program would be effected in the following ways:

1. Washington, DC would determine what services Indian JTPA grantees could offer, regardless of local needs, plans or priorities. Even though we would be required to prepare individual employability development plans for every program participant, the Labor Department would dictate the types of training services we would have to provide to every participant.

2. Ban all Indian JTPA grantee efforts to hold Indian workers who need immediate employment to find jobs. We would first have to force them to go through other services before we could refer them to jobs, regardless of the individual's need.

3. Ignore any linkages we have formed with other programs in our area and dictate how we must spend our funds.

4. Establish quotas on who we can serve, again without any regard for local plans or priorities designed to address local needs.

The Eastern Band of Cherokee Indians strongly objects to all these proposals. They would destroy all we have done over the years to make our services directly responsive to the needs of Indian people in our service area.

In addition, the proposals now being made by the Labor Department would violate the current JTPA law, which specifically provides that the Indian JTPA program "shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this section" of the JTPA law. The law goes on to give Indian JTPA grantees the flexibility to provide a wide variety of services consistent with the purposes of Section 401 of the law.

None of the Amendments approved by Congress would change the operations provision of the 401 Programs. In reviewing Indian JTPA programs, the Education and Labor Committee's of the House and Senate restated their support for the flexibility granted to Indian grantees to adopt their services to meet local Indian needs. (House Report on HR 3033).

The DOL proposals to "redirect" the Indian JTPA program also violate the basic principles of the federal policy of Indian self-determination as expressed in Public Law 93-638 and the statement issued recently by President Bush which pledged his renewed commitment to handling the relationships between the federal government and Indian tribes on a government-to-government basis.

During "Washington Impact Week" the United South and Eastern Tribes passed Resolution No. 93-14DC which states that the USET Board of Directors calls on the Secretary of Labor to suspend all proposed changes to JTPA Regulations except those specifically mandated by Title IV-A of the 1992 Job Training Reform Amendments until consultations have resulted in an effective equally based dialogue with end results that will meet the needs of Indian communities and the participants they serve. The Board of Directors of USET also called on the President to direct DOL to adhere to the provisions of the Indian Self-Determination Act and call all Committees of Congress with appropriated jurisdiction, along with all members of both houses, to intervene with the Secretary of Labor toward these ends. This resolution was duly approved by the USET Board of Directors meeting, with a quorum present, in Washington, DC on February 25, 1993.

An example of DOL's nonresponsiveness on this issue occurred when eight Senators wrote a letter to Labor Secretary Lynn Martin on September 23, 1992 in which they opposed revising JTPA regulations as they apply to Tribes. The letter reiterated the fact that the statutes authorizing Indian JTPA programs under section 401 emphasize that those programs are to reflect the unique needs of Tribes. The Senators also wrote that any revisions of JTPA regulations should be consistent with Congress' above intent concerning Tribal JTPA programs. Obviously, the Department's proposed revisions are not consistent with that intent, as I have illustrated in my comments. The Department of Labor's cavalier attitude towards the impact of these proposed revisions on tribes is reflected in the fact that they never even responded to the Senators' letter.

As you can see Senator Simon and Senator Inouye, we come to you with some heartfelt burdens placed on the Cherokee Tribe because we are faced with proposed regulations which effect our most vital resources, employment and training for our Tribal members. The proposed regulations would deny services to our Tribal members and hinder a successful program. Over the past year, our JTPA Program has advanced the work experience program and increased employment, which has initiated self-sufficiency within our Indian people. JTPA Title IV programs should continue to operate under the current regulations and allow the Tribes to operate them as Indian programs, serving the needs of Indian people.

In closing, Senator Simon, Senator Inouye and Distinguished Members of the Senate Indian Affairs and Labor Committee, I would like to extend my appreciation to you for providing the opportunity for my testimony to be made part of the record, which indicates my concerns regarding DOL's proposed regulations. The Eastern Band of Cherokee Indians appreciates the past support of our Indian programs. Any support you can provide us in dealing with the current crisis which the Department of Labor proposals have created, will be greatly appreciated.

THE EASTERN BAND OF CHEROKEE INDIANS

Qualla Boundary - P.O. Box 455, Cherokee, N.C. 28719
Telephone: (704) 497-2771 497-4771

JONATHAN L. TAYLOR, Principal Chief
GERARD PARKER, Vice-Chief
ARNOLD WACHACHA, Executive Advisor

September 13, 1993

Doug Ross, Assistant Secretary for Employment & Training
Department of Labor
S 2307 Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

Dear Assistant Secretary Ross:

On behalf of the Eastern Band of Cherokee Indians, I would like to sincerely thank you for your commitment to withdraw the proposed regulations regarding Indian JTPA grantees. It is gratifying to see that our, and many other Indian grantee's, efforts have not been in vain. I understand that your September 7th meeting with Indian grantee representatives on this and related issues went very well.

Your commitment to withdrawal of the proposed regulations means that we can continue our highly successful Education and Training Program. As this program has a 97% job placement rate, your actions also translate to continue job placement for a great deal of Tribal members here on our reservation and the surrounding area.

We greatly appreciate both the concern you have shown on this issue and your stated interest in learning more about Indian grantee programs and tribes in general. We understand that you would like to build a new relationship between the Department of Labor and Indian grantees and we whole-heartedly welcome such an initiative. In this spirit of better understanding and mutual cooperation, I would like to take this opportunity to invite you to visit our beautiful reservation here in the Great Smoky Mountains and observe for yourself our Education and Training Program. I believe, as do other grantees, that this would be very helpful in illustrating how Indian programs differ significantly from non-Indian programs, both in constituent needs and manner of administration.

TRIBAL COUNCIL MEMBERS

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Chairman, Birdtown Township

GLENN JOE BRADLEY
Vice Chairman, Wolfetown Township

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Big Cove Township

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To make any arrangements for a visit to our reservation, please call either myself or Barbara Owle, Executive Director of our Cherokee Education and Training Program at (704) 497-4222. Again, thank you for your interest and concern.

Sincerely,

EASTERN BAND OF CHEROKEE INDIANS

Jonathan L. Taylor

Jonathan L. Taylor
Principal Chief

cc: Secretary Robert Reich
Senator Daniel Inouye
Senator Paul Simon
Senator Lauch Faircloth
Senator Jesse Helms
Congressman Charles Taylor

Portland Area Office
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Portland, OR 97220
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August 30, 1993

The Hon, Paul Simon
Chair, Employment & Productivity Subcommittee
Committee on Labor and Human Resources
Attn. Ken Motya, Room SD 462
Washington, D.C. 20510

Dear Senator Simon:

Please accept the following as our submission for the Senate Labor and Indian Affairs Committee's September 15th hearing on Indian JTPA issues.

As one of the few tribes that has undertaken self-governance, we understand the magnitude of the U.S. government's responsibilities. The Siletz tribe believes that the new JTPA legislation was designed to strengthen our tribes and the Indian programs. We ask that congress intervene and ensure that the Department of Labor implements the legislation as congress intended.

The Department of Labor has continually ignored the Indian grantees input regarding regulation design and content. True consultation with the Indian community has not occurred. As Indian people, we know what works for us. To often, we as Native people are prescribed a remedy without consultation.

The Siletz Tribe has been operating an Employment and Training Program since 1983. As Native people serving Native people, we are uniquely qualified to provide valuable insight into program design and policies. We ask that the D.O.L. acknowledge our expertise concerning Indian JTPA program issues.

Our areas of concern with the proposed regulations are as follows:

Subpart A Introduction

Section 632.2:
Changes the importance that DOL places on Self-determination. The language changes from supports "furtherance" of principle of self-determination to "recognizes" principle of self-

determination. Siletz requests that the U.S. government and its agents take a unilateral stand on Indian issues. Section 401(a) and (b) of the law refers to "Compelling need for the establishment of comprehensive training and employment programs" for Indians and Native Americans; and requires that "such programs shall be administered in such a manner as to support growth and development as determined by representatives of communities and groups served by this section." The D.O.L. needs to re-define its position on self-governance to reflect the intent of the law.

DEFINITION OF DINAP: The proposed regulations defines DINAP as the "single organizational unit" mandated under the 1992 amendments. No authority or responsibilities are listed. Section 401(j)(1) and (2) requires the Secretary of Labor to designate a "single organizational unit that shall have as its primary responsibility the administration of all Native American programs under this Act." The authority which is to be delegated to this unit is described in the Act. The D.O.L. should revise the proposed definition to identify the DINAP's authority and responsibilities as defined in the law.

DEFINITION OF INDIVIDUAL SERVICE STRATEGY: If Indian programs are going to be using the same terms as the non-Indian programs, then this definition should conform to the definition in the Title II-A and Title II-B provisions of the Act.

DEFINITION OF NATIVE AMERICAN COMMUNITY BENEFIT: This definition was dropped in the proposed regulations. This activity enabled some of the Native American grantees the option to create jobs in depressed economic environments. The deletion of this component makes it difficult to fulfill the goals of Sec. 401(a)(3), "Reduction of economic disadvantage among individuals" and "advancement of economic and social development in the communities". Grantees have used this activity to develop child care centers, libraries, fisheries, etc. The benefit to the community goes beyond the mere creation of jobs. Community benefit often provided a holistic solution to the high incidence of unemployment in rural areas.

DEFINITION OF OFFICE OF SPECIAL TARGETED PROGRAMS: Proposed definition specifies that it is the "next higher level organizational unit" above DINAP. Sec. 401(j) delegates authority specifically to the Indian unit. The D.O.L. needs to specify the role of the Indian unit and not confuse responsibilities or the authority of DINAP and the Office of Special Targeted Programs.

Subpart B Designation Procedures

ELIGIBILITY REQUIREMENTS:

The proposed Sec. 632.10(b)(2) and Sec. 632.10(b)(1)(ii) definition of Alaska Native entities excludes certain types of federally

recognized entities, such as IRA councils, which are specifically included in current designation procedures. The proposed regulations should not exclude or penalize current grantees in the designation process.

Sec. 632.10(b)(4) indicates that public or private non-profit agencies are eligible for designation but does not further describe the circumstances under which they are eligible. The current regulations indicate that public or private nonprofit agencies are eligible to serve areas where there are significant numbers of Native American people, but no tribal, Alaska Native or Hawaiian Native entities eligible for designation. The proposed designation procedures must be clear and concise. Hearings regarding designation can be costly and time consuming for the grantees and DOL.

Sec. 632.10(d) limits the funding threshold of $120,000 to Sec. 401 and Indian Title II-B funds. The current regulations counts "all JTPA funds". The proposed threshold penalizes small grantees that have effectively linked with non-Indian JTPA programs to provide services. The proposed threshold only considers the monetary value, not the quality of program services. The proposed regulations should count "all JTPA funds".

Sec. 632.10(e) gives the D.O.L. the option to waive the $120,000 minimum requirement if certain conditions are met. Current regulations state that D.O.L. shall waive the threshold if certain conditions are met. The change in the language makes a waiver optional and subjective. Forty-nine current grantees would be threatened if this portion of the draft regulations becomes final.

Sec. 632.10(e)(1) limits the threshold requirement to funding for services "normally funded through the U.S. Department of Education, of the Interior, or of Health and Human Services." The current language allows funds from JTPA "and other human resource development programs to count, regardless of source. The proposed language penalizes smaller grantees that have created successful linkages with other funding sources. The current language should be maintained in the proposed regulations.

Sec.632.11: Draft regulations reference advance NOI, but doesn't make it mandatory for designation. If the purpose of the ANOI is to inform the current grantee of competition, then the ANOI needs to be a mandatory procedure for all applicants. If an ANOI isn't mandatory, it loses its effectiveness.

Sec. 632.13 needs to incorporate a system that gives weight to organizations with a proven track record and community support. Successful programs need to be recognized and rewarded in the grantee designation process.

Sec. 632.15(d) gives the DOL the power to use funds allocated to

an area with no designated grantee for "other JTPA purposes". "Other JTPA purposes" needs to be defined, and include the input from the target population.

Sec. 632.15 (e) removes the reference to a grantee's right to a hearing if its grant is terminated for other than emergency reasons. An appeal or hearing process for grant termination would be logical and necessary. This right is given to those that apply for JTPA funding but are denied, so the same process should apply to terminated grantees.

Sec. 632.22 is shortened to a single sentence providing that DOL will issue modification procedures as administrative instructions. Current regulations give some assurance that the grantee's modification submission will be addressed within a reasonable time frame (30 calendar days of receipt). Proposed regulations should include guidance for modification submission.

Sec. 632.31(b)(4) conflicts with an OMB ruling that consortia of tribes are agencies of the member tribes and also conflicts with Sec. 632.10(b)(5)(iii) of the draft regulations which specifies that the consortium, not its administrative entity, is the grantee.

Sec. 632.36(d) and Sec. 632.37(c) mandates the use of three cost categories instead of the current four; and defines and reclassifies cost categories. This change could impose unnecessary accounting and timekeeping revisions which could prove costly to the grantees.

Sec. 632.38 allows Administrative Cost Pools, but requires prorating of all costs back to "benefiting programs based on benefits received by each program", thereby abolishing the theory behind an Administrative Cost Pool.

Sec 632.41(b) references a carry-in limit as being 20% conflicts with Sec. 632.174(d) which establishes a 15% limit. The carry-in limit needs to remain at 20% and be consistently referenced throughout the regulations.

Sec. 632.78 deletes provision referring to Sec. 401(a) of the law. The proposed regulation deletes what could be the most important component of all Indian programs - <u>self determination.</u>

Sec. 632.78(d)(2)(i)-limits OJT to 6 months or 488 hours "including time spent in related classroom training. The law does not make this unnecessary stipulation. The proposed regulations should reflect the intent of the law and not add language that could be detrimental to program objectives.

Sec. 632.78(e)(2)(iii) outlines time limits placed on work experience. This section should identify if there are any expectations surrounding the period of time after which a participant can again be assigned to a work experience slot.

4

Sec. 632.78(e)(2)(iv) provides that all work experience "should" be accompanied by "other services designed to increase the basic education and/or employability of each participant." This section implies that the grantee's assessment process is inadequate and takes away from our ability to design individual program plans.

Sec. 632.79(c)(1) and (2) limits job search services. These limitations are unnecessary and detrimental to program goals. As an Indian program we need the flexibility to design services that meet our population's needs. The proposed language "encourages" grantees to use Job Service for such services. Unfortunately Job Services may not be able to provide the kind of job development/linkages that are necessary in Indian country.

Sec. 632.79(d) shifts the determination of allowable services from the Indian community to the D.O.L. (whom we assume will make the determination of whether or not an activity is "consistent with the intent and purpose of the Act.") JTPA Law Sec. 401 (f) states that funds under Sec. 401 shall be expended for programs and activities consistent with the purposes of Sec. 401. The proposed regulations should reflect the language of the law.

Sec.632.80 adds language that requires that wage payments be paid at rates for similarly situated employees. The JTPA Law Sec.142(a)(2) references a wage payment, but it only applies to OJT. The proposed regulations should be consistent with the language in the law. If we apply this rule to work experience we will be drastically reducing the number of clients we can train. In addition, you will be paying a work experience participant a wage that employers pay for well trained labor.

Sec.632.83(a) program limitations should state parameters for Work Experience time limitations.

Sec. 632.88 which identified the responsibilities of DOL to the grantees was deleted. DOL responsibilities should be included in the regulations as outlined in the law.

Sec. 632.123 states that the participant's ISS must "ensure that adequate resources from all sources are available to fully fund the range of training and/or supportive services needed to attain the stated objectives" without loan financing. This language would limit the number of participants that we could provide classroom training services to. To make classroom training participation conditional on the grantee's ability to ensure full funding could penalize those whose training costs exceed our ability to fund. The end result would be that we wouldn't be able to assist the client. The client would then have to incur greater indebtedness or not receive the training at all. It is unreasonable to assume that the JTPA grantee can ensure full funding for all the applicants that require classroom training assistance, without the client assuming some financial

responsibility.

Sec. 632.172(a)(2) encourages grantees to insure that each participant have at least one barrier to employment, as defined by the DOL. The grantee's assessment process and priority system should determine who receives JTPA services, not the DOL.

Sec. 632.174 was eliminated. It addressed innovation in program approaches and included language in Sec 401(f) of the Act which permitted the grantee to engage in, but not be limited to activities allowed to other recipients under JTPA. This section is important to program development and design, it should remain in the regulations. This section allows Indian grantees the flexibility to design programs that work in Indian country.

Sec. 632.174(a) places a new restriction on administrative costs. This section needs to clarify how administrative costs will apply to carry-over funds. Current regulations limit administrative costs to 20% of "funds available", the proposed regulation would restrict administrative costs to 20% of the new obligational authority allocated for each grant cycle. The current standard should remain, as it is consistent with the law as it applies to the Summer Youth Program.

Sec. 632.257(a)(3) was deleted in the proposed regulations. This section allowed Indian grantees the ability to use 12 month actual income, or the last 6-months income multiplied by two to determine economically disadvantaged status. This section addressed situations in many isolated Indian and Alaska Native communities where only cash income opportunities available are highly seasonal. This section needs to remain in the new regulations.

Sec. 632.236(a) Administrative cost limited to 15% of "annual allocation available for each program year. The law limits administrative costs for Summer Youth to 15% of "funds available under this part. The proposed regulations should reflect the language of the law.

In summation, the Department of Labor states in the draft regulations that "Certain changes are mandated by statue for all recipients under the Act,.....Other changes are proposed because the Department believes they will enhance the quality of the Section 401 program....The Department does not believe that any of the changes to the section 401 program proposed in these regulations violate the principles of Indian self determination or government to government relationship with Indian tribes. We contend that this statement, which permeates the proposed regulations, violates the principles of Indian self determination. The DOL has based many of the changes on what the "department" believes is good for Indian programs, and not what Indian people know is good for Indian programs.

In addition, the DOL has deleted identifying their responsibilities and incorporated vague language that could be broadly interpreted by federal monitoring agents. We urge the committee to review the proposed regulations, and direct the Department of Labor to consider the Indian community's unique needs and expertise.

Sincerely,

Nelson Witt
Cheir Exective Officer

American Indian Center of Santa Clara Valley, Inc.

September 3, 1993

Honorable Paul Simon
Chairman, Employment and Productivity Subcommittee
Committee on Labor and Human Resources
United States Senate
Attn: Ken Montoya
Room SD462
Washington, D.C. 20510

Dear Honorable Paul Simon:

As Chairman of the Board of Directors for the American Indian Center of Santa Clara Valley, Inc., that represents over 10,000 American Indians residing in Santa Clara County, I intend to submit this statement for the consideration of the Senate Labor and Indian Affairs Committee in conjunction with the September 15, 1993 hearing on Indian JTPA issues.

As an urban American Indian Center we provide an array of services to the local Indian community and particularly, the most important service provided for this community is the Job Training Partnership Act. The importance of this program can be summed up as a valuable link between the Native Americans and the full participation in the work force. The importance of this program provides the Native American population with a linkage to private and public sectors. The importance for the self sufficiency issue with Native Americans is a guiding principal. As you further know that self sufficiency alleviates dependency on social service programs. This program has been under the auspices of the American Indian Center for over ten years. Overall, we have been providing services to our local Indian community for over twenty years. A great deal of individuals have been positively impacted by our JTPA Program through pride, respect, self esteem with an end result in one's developing goal to begin a career in the job market with much success. The Native American JTPA Program's throughout the United States are aware of the Native American populaces needs. Additionally, we are knowledgeable on how to address their needs. We can provide the necessary assistance for them with reaping positive results.

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We feel that he draft regs would be detrimental to our local Indian community because of the lack of dialogue concerning these draft regs. Indian people should be afforded the opportunity as every American who wants a job can have a job. As a race of people we have traditionally faced the greatest barriers to full participation in the work force as compared to other Americans. To consider these draft regs that have underlying meanings without regard of the specific targeted group's full participation alone could have alot of negative impact.

If improvement is needed then Labor should begin a cooperative consultation process with indian Leaders and Program Managers concerning changes in program rules that will actually improve positively the program as an Indian and Native American Program but not to have a goal to reinvent it as a possible demise of a targeted group. We would like to have a trusting, faithful and good relationship with Labor and an opportunity for positive imput that will have an organized effort to achieve what is the most beneficial for Native Americans.

Sincerely,

Mr. Shawn Johns
Chairman, Board of Directors

cc: Honorable Don Edwards
Honorable Norm Mineta

Colville Confederated Tribes

P.O. Box 150 - Nespelem, WA 99155 (509) 634-4711

DATE: September 8, 1993

The Honorable Paul Simon
Chair, Employment & Productivity Subcommittee
Committee on Labor and Human Resources
United States Senate
Attention: Ken Montoya, Room SD 462
Washington, D.C. 20510

Dear Honorable Paul Simon:

The Confederated Tribes of the Colville Reservation expresses concern on the new regulations for the Indian JTPA program drafted by Labor Department staff. The following position statement is submitted for the consideration of the Senate Labor and Indian Affairs Committee in conjunction with the September 15, 1993 Hearing on Indian JTPA issues.

Concerning the overall drafted regulations, the overall proposal has violated the consultation requirements that is in the JTPA law and has disregarded all public statements of protest made to the Labor Department from Native American Programs and leaders.

The Native American Programs was established to meet the specific and unique needs of our people. To compare our Reservation problems in employment and training with the inner cities is completely inappropriate, and to mandate assimilation towards Title II non-Indian programs is not only an insult and attack on our culture but is in total disregard of the intent of the programs. Thus, it would seem the hidden intention may be the elimination of such programs and cultures.

Regarding section 632.172, Participant Eligibility (a)(3), eliminating participants with poor work history would vastly effect our program service in that we do serve many second and third generation public assistant recipients. If a participant had the opposite, a good work history, in our opinion they would be employable with transferable skills. Its stated that these regulations are to ensure that services are provided to the "most in need", how can a non-Indian, non-reservation department know who is "most in need" in a culture and lifestyle that they cannot understand?

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The extra burden of paperwork along with the decrease in administration fees is incompatible and takes away from staff being able to provide direct services.

We recommend that the Labor Department withdraw the draft regulations package and begin a good faith consultation process with Indian Leaders and Program Managers on what changes in program would actually improve the program, as an Indian and Native American Program.

Respectfully Submitted:

Eddie Palmanteer, Jr., Chairman
Colville Business Council
Colville Confederated Tribes

INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992

Public Law 102-477
102d Congress

An Act

Oct. 23, 1992
[S. 1530]

To authorize the integration of employment, training, and related services provided by Indian tribal governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Employment, Training and Related Services Demonstration Act of 1992.
25 USC 3401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act of 1992".

25 USC 3401.

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination.

25 USC 3402.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) INDIAN TRIBE.—The terms "Indian tribe" and "tribe" shall have the meaning given the term "Indian tribe" in section 4(e) of the Indian Self-Determination and Education Assistance Act.

(2) INDIAN.—The term "Indian" shall have the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act.

(3) SECRETARY.—Except where otherwise provided, the term "Secretary" means the Secretary of the Interior.

25 USC 3403.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, or Secretary of Education, shall, upon the receipt of a plan acceptable to the Secretary of the Interior submitted by an Indian tribal government, authorize the tribal government to coordinate, in accordance with such plan, its federally funded employment, training, and related services programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

25 USC 3404.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under any such plan referred to in section 4 shall include any program under which an Indian tribe is eligible for receipt of funds under a statutory or administrative formula for the purposes of job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training.

SEC. 6. PLAN REQUIREMENTS. 25 USC 3405.

For a plan to be acceptable pursuant to section 4, it shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government's service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the affected tribe.

SEC. 7. PLAN REVIEW. 25 USC 3406.

Upon receipt of the plan from a tribal government, the Secretary of the Interior shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the tribal government submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by such tribal government or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the purposes of this Act or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian programs.

SEC. 8. PLAN APPROVAL. 25 USC 3407.

Within 90 days after the receipt of a tribal government's plan by the Secretary, the Secretary shall inform the tribal government, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval.

SEC. 9. JOB CREATION ACTIVITIES AUTHORIZED. 25 USC 3408.

The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for the development of the economic resources of the tribal government or of individual Indian people if such expenditures are consistent with an overall regional economic activity which has a reasonable likelihood of success and consistent with the purposes specifically applicable to Indian programs in the statute under which the funds are authorized.

25 USC 3409.

SEC. 10. PRIVATE SECTOR TRAINING PLACEMENTS.

A tribal government participating in a demonstration program under this Act is authorized to utilize funds available under such plan to place participants in training positions with private employers and pay such participants a training allowance or wage for a period not to exceed 12 months, if the tribal government obtains a written agreement from the private employer to provide on-the-job training to such participants and, upon satisfactory completion of the training period, to guarantee permanent employment to such participants for a minimum of 12 months.

25 USC 3410.

SEC. 11. FEDERAL RESPONSIBILITIES.

Contracts.

(a) RESPONSIBILITIES OF THE DEPARTMENT OF THE INTERIOR.—Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this Act. The lead agency for a demonstration program under this Act shall be the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project which shall be used by a tribal government to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by a tribal government to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribal government appropriate to the project, except that a tribal government shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

(b) REPORT REQUIREMENTS.—The single report format shall be developed by the Secretary, consistent with the requirements of this Act. Such report format, together with records maintained on the consolidated program at the tribal level shall contain such information as will allow a determination that the tribe has complied with the requirements incorporated in its approved plan and will provide assurances to each Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

25 USC 3411.

SEC. 12. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this Act.

25 USC 3412.

SEC. 13. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, as appropriate, is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise

available to a tribal government in order to further the purposes of this Act.

SEC. 14. ADMINISTRATION OF FUNDS AND OVERAGE. 25 USC 3413.

(a) ADMINISTRATION OF FUNDS.—

(1) IN GENERAL.—Program funds shall be administered in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount attracted from each program) are spent on allowable activities authorized under such program.

(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the tribe to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among such individual programs.

(b) OVERAGE.—All administrative costs may be commingled and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal audit purposes, provided that the overage is used for the purposes provided for under this Act.

SEC. 15. FISCAL ACCOUNTABILITY. 25 USC 3414.

Nothing in this Act shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

SEC. 16. REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION. 25 USC 3415.

(a) PRELIMINARY REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on the status of the implementation of the demonstration program authorized under this Act.

(b) FINAL REPORT.—Not later than five years after the date of the enactment of this Act, the Secretary shall submit a report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Education and Labor of the House of Representatives on the results of the implementation of the demonstration program authorized under this Act. Such report shall identify statutory barriers to the ability of tribal governments to integrate more effectively their employment, training, and related services in a manner consistent with the purposes of this Act.

SEC. 17. LABOR MARKET INFORMATION ON THE INDIAN WORK FORCE. 25 USC 3416.

(a) REPORT.—The Secretary, in consultation with the Secretary of Labor, shall, in a consistent and reliable manner, develop, maintain and publish, not less than biennially, a report on the population, by gender, eligible for the services which the Secretary provides to Indian people. The report shall include, but is not limited to, information at the national level by State, Bureau of Indian Affairs Service area, and tribal level for the—

(1) total service population;

(2) the service population under age 16 and over 64;

(3) the population available for work, including those not considered to be actively seeking work;

(4) the employed population, including those employed with annual earnings below the poverty line; and

(5) the numbers employed in private sector positions and in public sector positions.

Reports.

(b) INDIAN DEMOGRAPHIC INFORMATION.—The Secretary, in consultation with the Bureau of the Census of the Department of Commerce, and the National Center for Native American Studies and Policy Development authorized by Public Law 101-301, shall prepare a report on the need for comprehensive, accurate and periodically updated information on the size and characteristics of the Indian and Alaska Native population throughout the entire United States. This report shall include the need for information, together with the cost of acquiring such information, on the characteristics and need for education, health, housing, job training, and other basic needs of such population, and shall take into consideration the need for this information by Indian tribes and organizations serving Indians in nonreservation areas. The report shall be submitted to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Education and Labor of the House of Representatives not later than 12 months after the date of enactment of this Act.

25 USC 3417.

SEC. 18. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ECONOMIC DEVELOPMENT PROGRAMS.

Any State with an economic development program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of the Intergovernmental Personnel Act of 1970, may deem appropriate to help ensure the success of such program.

Approved October 23, 1992.

LEGISLATIVE HISTORY—S. 1530:

HOUSE REPORTS: No. 102-905 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-188 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
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Vol. 138 (1992): Sept. 23, considered and passed House, amended.
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